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OF THE

NEW-YORK HISTORICAL SOCIETY

FOR THE YEAR

1880.

PUBLICATION FUND SERIES.

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REVOLUTIONARY AND MISCELLANEOUS PAPERS.

VOL. III.

INTRODUCTION.

The present volume completes this minor series of Revolutionary and Miscellaneous Papers. The trials by Court-Martial of Generals Schuyler, Howe and St. Clair have become so rare and difficult to refer to with readiness as fully to justify their reproduction at this time as among the most important documents of the War of Independence. The Journal and Correspondence of the British Commissary Rainsford throw new light upon the employment of the Hessian mercenaries by Great Britain in that War, which is further illustrated by the Journal at Quebec in 1775–76.

The Miscellaneous Papers comprised in this volume will be found to be of unusual interest, especially in New York. The Case of William Atwood, 1703, *is a document entirely unknown to our historians, although it contains matter of extraordinary value for the illustration of the history of men and events during a time of great partisan excitement, which had a lasting influence through all the subsequent colonial period. It presents a conspicuous illustration of the origin and progress of those domestic feuds in the Colony whose consequences continued to govern politics and society here during the whole period anterior to the Revolutionary War, and can be readily recognized*

in all the subsequent history. The Funeral Sermon on the Death of Lord Lovelace in 1709, *is, so far as is known, the only work surviving in print of William Vesey, the first Rector of Trinity Church. The* Proposals for Erecting a School, Library, and Chapel at New York, 1712–13, by the Rev. John Sharpe, Chaplain to his Majesty's Forts and Forces in the Province of New York in America, *is printed from a careful copy of the original Manuscript in the Lambeth Palace Library, London. It is a paper of great interest and is accompanied by a catalogue of the books which in fact constituted the first public library in New York, of which it was also almost the earliest proposal.*

The Letter of Domine Michaelius in 1628 *carries us back to the very cradle of the infant colony of New Netherland. This translation from the Dutch original was prepared by the late* HENRY C. MURPHY, *and enriched with an introduction and notes by the late* JOHN ROMEYN BRODHEAD, *the historian of New York; all being originally intended for the concluding volume of the Second Series of the Society's publications.*

The concluding document in this volume is one of singular interest and value. It preserves the Records of the Court of Lieutenancy for the Citty and County of New York begun October 16th, 1686, ending 1696. *It is printed from the original manuscript in the Library of the Society, and the editors of the volume would fail in their duty, if they should omit to acknowledge the obligation under which the Society rests to its honored Recording Secretary, Col.* ANDREW WARNER, *whose watchful interest in all that concerns New York history, and the New York Historical Society, secured*

this valued record for its archives. A few words will suffice to indicate its relation to the history of the period to which it belongs.

The common law of England gave the sovereign no absolute power to control his troops, and Parliament was never forward or even disposed to confer it by statute. All parties in the high councils, of the nation, had regarded the standing armies of the Stuarts with great aversion as the tools of tyranny. That jealousy of the control of the militia was signally displayed by the first English Colonists in Massachusetts, from whose laws were derived the earliest regulations of the militia in New York, when it came under English authority at the Conquest. The Duke's Governors during the whole period down to 1691 *were constantly at issue with the people when this topic came up: and as this Court of Lieutenancy was begun under the sway of James II, and continued under the reign of William and Mary—it furnishes many singular instances of the methods pursued in such tribunals and is the more valuable from the fact that it is really unique.*

The Index, *which will be found at the end of this volume, covers also the two preceding volumes of the series.*

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I.

THE TRIAL OF

MAJOR GENERAL ST. CLAIR.

August, 1778.

PROCEEDINGS

OF A

GENERAL COURT MARTIAL,

HELD AT *WHITE PLAINS*,

IN THE STATE OF

NEW-YORK,

BY ORDER OF HIS EXCELLENCY

GENERAL WASHINGTON,

COMMANDER IN CHIEF

OF THE ARMY OF

THE UNITED STATES OF AMERICA,

FOR THE TRIAL OF

MAJOR GENERAL ST. CLAIR,

AUGUST 25, 1778.

Major General LINCOLN, Preſident.

PHILADELPHIA:
PRINTED BY HALL AND SELLERS, IN MARKET-STREET.

MDCCLXXVIII.

PROCEEDINGS

OF A

GENERAL COURT MARTIAL, &c.

Major General LINCOLN, PRESIDENT.

Brigadier General NIXON,	MEMBERS.	Colonel PUTNAM,
Brigadier General CLINTON,		Colonel M. GIST,
Brigadier General WAYNE,		Colonel RUSSEL,
Brigadier General MUHLENBURGH,		Colonel GRAYSON,
Colonel WILLIS,		Colonel STEWART,
Colonel GREATON,		Colonel MEIGGS.

JOHN LAURANCE, JUDGE ADVOCATE.

THE Judge Advocate produces His Excellency the Commander in Chief's Orders for the Court to sit, which being read, are as follow:

Head-Quarters, White Plains, August 23, 1778.

A GENERAL Court Martial, whereof Major General Lincoln is appointed President, will sit to-morrow morning at nine o'clock, at the New Dining Room, near Baron De Kalb's quarters, for the trial of Major General St. Clair. Brigadiers General Nixon, Clinton, Wayne, and Muhlenburgh,—Colonels Grayson, Russel, M. Gist, Greaton, Putnam, Meiggs, Stewart and Cortland, are to attend as members.

Head-Quarters, White Plains, August 24, 1778.

THE General Court Martial, whereof Major General Lincoln is President, will sit to morrow at the time and place mentioned in yesterday's orders. Members the same, except Colonel Willis *vice* Colonel Cortland, who is absent on command.

AUGUST 25th.

THE President, Members and Judge Advocate being sworn, the Judge Advocate prosecuting in the name of the United States of America, the Court proceed to the trial of Major General St. Clair, who appears before the Court, and the following charges, contained in a Report of a Committee of Congress appointed to examine the evidence collected, and to state charges against the General Officers who were in the Northern Department when Ticonderoga and Mount Independence were evacuated, are exhibited against him.

First. With neglect of duty, under the 5th article of the 18th section of the Rules and Articles of War.

Second. With cowardice, with treachery, with incapacity as a General, respectively; under the 5th article of the 18th section of the Rules and Articles of War.

Third. With treachery, under the 5th article of the 18th section of the Rules and Articles of War.

Fourth. With inattention to the progress of the enemy, with treachery, with incapacity as a General, respectively; under the 5th article of the 18th section of the Rules and Articles of War.

Fifth. With shamefully abandoning the posts of Ticonderoga and Mount Independence, in his charge; under the 12th article of the 13th section of the Rules and Articles of War.

Major General ST. CLAIR pleads NOT GUILTY.

The Judge Advocate states the matters upon which the charges against the General are founded, as follow:

Gentlemen,

IT is necessary (previous to my producing the requisite evidence on this trial) that I should inform you of the matters, upon which the charges against Major General St. Clair are founded. They are certain remarks, made by a committee of the Hon. the

Continental Congress, appointed to examine the evidence collected, and to state charges against the general officers who were in the northern department when Ticonderoga and Mount Independence were evacuated.

Before I mention these remarks, I would inform you that Major General St. Clair, on or about the 13th day of June, 1777, took upon him the command of Ticonderoga and Mount Independence, and that these places were evacuated to the enemy by his orders on the 6th day of July following.

The first remark is: That on the 13th day of June General St. Clair was possessed of an information from two prisoners taken in Canada, that the British forces, amounting to about 10,000 men, were proceeding as fast as possible against him, and that he might expect their arrival in three weeks at farthest. That as on the 18th of June four of the enemy's vessels were lying on the hither side of Split Rock, and on the 24th seven of them were at Crown-Point, and others four or five miles lower down, their forces then encamped on both sides of Gilleland's Creek, and he was informed by his scouts that they were very numerous; so from these circumstances it appears General St. Clair had substantial reason to confide in what the prisoners had told him relative to the intentions and strength of the enemy; and that he ought at this time to have taken his final resolution, either to stand an attack, or to retreat with his stores, the preservation of which was a principal object in the determination of a council of war on the 20th of June. Therefore it appears that General St. Clair's neglecting to form his decisive opinion at this time, or at a later day, so as to allow him a sufficient opportunity to retreat with his troops, sick, ammunition, cannon, provisions and cloathing, and to deprive the enemy of shelter at Ticonderoga, was a neglect of duty.

Second. That General St. Clair, on the 24th of June, was informed by his scouts the enemy were very

numerous, and yet, nevertheless, on the next day he wrote to Congress, that he was not able to discover whether the enemy were in force or not.

Third. That if General St. Clair found small scouts could not acquire a knowledge whether the enemy were in force or not, it was his duty in due time to have sent out reconnoitering parties, in such force as might have assured him whether or not the enemy were in strength, this being a most important point, as upon this he was to regulate his motions; and therefore his failure in sending out such parties in due time was a neglect of duty.

Fourth. That as Jesse Leavenworth swears General St. Clair did not annoy the enemy in their advance against, and investiture of, the posts under his care, although the troops were healthy, courageous, and desirous of action, it appears the General did not to the utmost of his power oppose the operations of the enemy; and therefore that he is liable to the charge of neglect of duty, of cowardice, or of treachery, or of incapacity as a General.

Fifth. That as it was determined in a council of war on the twentieth of June, approved by General Schuyler, the commanding officer in the department, that the repairing the old and adding new works on Mount Independence ought to claim immediate attention; and Jesse Leavenworth swears not a stroke was struck for those purposes; and by the orderly book it appears the fatigue party was decreased in number, and continued so at a time when it should have been abundantly increased; so on these points the General is liable to be charged with a neglect of duty, amounting to a breach of orders, and with treachery.

Sixth. That as on the 25th of May, the Deputy Commissary rated that 1400 barrels of flour would, at an allowance of one pound each man *per diem*, serve 4000 men 66 days, and that 661 barrels of beef would serve the same number of men 75 days; and supposing that, from the twentieth of June to the fourth of

July inclusive, there were in Ticonderoga and Mount Independence 4739 men, and there does not appear to have been at any time between these periods a greater number; so estimating the consumption of 4739 men, from the twentieth of June to the fourth of July inclusive, upon the 2015 barrels of flour, 195 barrels of beef, and 784 barrels of pork, on the twentieth of June returned by Deputy Commissary Yancey as then actually remaining on hand, there did on the fourth of July remain, or ought, if provisions had been regularly and properly issued, to be then remaining 1625 barrels of flour, 3 barrels of beef, and 784 barrels of pork; a magazine of provisions sufficient to afford to the army on the fifth of July, amounting, by the arrival of the militia of the Grants, to 5639 men of all ranks, *full allowance* of provision in flour for 52 days, and in beef and pork for 32 days, exclusive of the considerable number of fat cattle that arrived at Ticonderoga on the fifth of July, the teams of oxen necessarily attending the post, and other stores specified in the Commissary's return on the twentieth of June, and even supposing, as may not reasonably be done, that no supply of flour had arrived after that day. And as this calculation has been liberally made, upon the quantity of provisions actually in Ticonderoga on the twentieth of June, for the expenditure of which General St. Clair, as commander at the post, ought to be held responsible; therefore it clearly appears Ticonderoga and Mount Independence were not abandoned upon the just principle of a want of provisions.

Seventh. That as General St. Clair informed the Hon. Mr. Jay, that at the time of holding the council of war on the 5th of July he knew it to be impossible to defend the posts with his numbers, it is natural to conclude he was decided upon this point as early as the 29th of June, the day that he sent his son and private effects from Ticonderoga to Fort-George, as a place of safety: That being decided upon this point, it was his duty then to have taken as effectual meas-

ures for the preservation of the public property, at least equally with his own, claiming his earliest attention: That on the 30th of June, the enemy being advancing against him so near as the Three-mile-point, it is incredible that he did not then know that they were in force: That it was his duty, *at that point of time*, to have finally determined either to abide the operations of the enemy, or to retire: That if the last resolution was taken, and, from his sending off his son and baggage the day before, there is the strongest presumption that this resolution was *then* fully taken, it was his duty then to have proceeded to send off the public stores, to destroy the works, and to evacuate the posts without losing a moment of time: And that by deferring to take any measures to retire till the last moment when he could possibly retreat even with his effective troops, a moment when the sick, ammunition, cannon, provision and cloathing of the army must be abandoned and lost, besides the lives of many men in effecting a retreat from before an enemy immediately upon him, General St. Clair appears chargeable with inattention to the progress of the enemy, with treachery, or with incapacity as a General, and with shamefully abandoning the posts of Ticonderoga and Mount Independence, in his charge. Nor can the proving, as General St. Clair wishes to do, that the works of Ticonderoga and Mount Independence were too extensive, and that the troops were very badly armed, if such things can be proved, fail of placing General St. Clair in a more reprehensible point of view, as the weakness of his defence being more obvious, his retreat should have been the earlier determined upon.

The charge of neglect of duty is founded on the first, third, fourth and fifth remarks respectively.——— Cowardice, treachery, incapacity as a General, respectively, are founded upon the fourth remark.——— Treachery, founded upon the fifth remark.———Inattention to the progress of the enemy, treachery, inca-

pacity as a General, respectively, founded upon the seventh remark.——— Shamefully abandoning the posts of Ticonderoga and Mount Independence, in his charge, founded upon the seventh remark.

Major General St. Clair requests that the Resolution of Congress of the 5th of February last, appointing two Counsellors learned in the law to assist and co-operate with the Judge Advocate in the trial of the General Officers who were in the Northern Department when Ticonderoga and Mount Independence were evacuated, may be read; which, being read, is as follows:

IN CONGRESS, *February* 5, 1778.

THE Committee, appointed on the 27th of August, 1777, to collect evidence of the state of the army in the Northern Department, and also the state of the troops, military stores and provisions, at the posts of Ticonderoga and Mount Independence, before and at the time when the evacuation was determined upon, Report,

That they have made the fullest enquiry in their power into the several articles enumerated in the resolve of Congress of the date above mentioned, and have collected a variety of evidence, which they are ready to transmit to General Washington: Whereupon

Resolved, That the Committee be directed to transmit the evidence by them collected to General Washington, and that he be authorized and directed to appoint a Court Martial for the trial of the General Officers who were in the Northern Department when Ticonderoga and Mount Independence were evacuated, agreeable to the Rules and Articles of War.

That two Counsellors learned in the law be appointed, to assist and co-operate with the Judge Advocate in conducting the trial.

The Gentlemen chosen. Jonathan D. Serjeant, Esq; Attorney General for the State of Pennsylvania.

William Patterson, Esq; Attorney General for the State of New-Jersey.

Extract from the Minutes,
CHARLES THOMSON, Secretary.

Major General St. Clair requests the Judge Advocate to inform him what steps have been taken respecting these gentlemens attendance:—The Judge Advocate produces a copy of a letter written by him to his Excellency General Washington, and the General's answer, which are as follow:

SIR, *White Plains, August* 24, 1778.

AS the Congress have resolved that two Counsellors learned in the law should assist and co-operate with me in the prosecution of the General Officers respecting the evacuation of Ticonderoga, I am under the necessity, previous to my proceeding to the trial of Major General St. Clair, of requesting your Excellency to inform me whether those gentlemen have been desired to attend agreeable to the Resolution of Congress.

I am, with much respect,
Your Excellency's obedient Servant,
JOHN LAURANCE, Judge Advocate.

SIR, *Camp, August* 24, 1778.

ON the 13th instant I wrote to William Patterson and Jonathan D. Serjeant, Esquires, Attorney Generals for Jersey and Pennsylvania, by express, and transmitted a copy of the Resolution which you mention, notifying them at the same time, that General St. Clair's trial would come on to-day. I have received an answer from Mr. Patterson, by which he declines attending. From Mr. Serjeant I have not heard. The letter to him I inclosed to the care of Mr. Laurens, President of Congress, with a request that it

might be forwarded to him, as I did not know in what part of Pennsylvania he then was.

I am, Sir,

Your most obedient Servant,

GEORGE WASHINGTON.

P. S. The President received my letter of the 13th, which inclosed Mr. Serjeant's, and I am informed dispatched it by express.

The letters being read, Major General St. Clair addresses the Court as follows:

THE resolution that has just been read is of so singular a nature, that I cannot pass it by without some observations.

The treatment I have received renders it necessary for me to submit to any regulation that may have been prescribed, as an objection on my part would probably be construed into the fear of a thorough investigation, and consequently an evidence of guilt. I shall therefore make no objection to the learned gentlemen, should they attend, assisting and co-operating with the Judge Advocate in my trial: But, as I conceive this to be introducing a very great change in the mode of proceeding before Courts Martial, I cannot consent that Congress have any power to make that change.

Courts Martial were constituted by the first article of the 14th section of the rules and articles for the government of the troops, and the mode of proceeding in them by the third article of the same section. These articles every officer is obliged to subscribe, whereby they become a compact betwixt the army and the people, and cannot be altered but by common consent; and a resolve of Congress has no more operation upon them than an edict of the Grand Turk. But a power to alter the ordinary course of proceeding for a particular case is big with consequences of the most dangerous nature, and might be made an instrument of the

most grievous oppression. I do therefore, on behalf of the army, solemnly protest against my having submitted to this innovation ever hereafter being drawn into precedent.

Major General St. Clair admits he took the command of Ticonderoga and Mount Independence on or about the 13th day of June, 1777, and that these posts were evacuated by his orders the 6th day of July following.

The Judge Advocate produces copies of letters from Major General St. Clair to Major General Schuyler, dated June 13th, June 18th, and June 24th, 1777; also a copy of a letter from Major General St. Clair to Congress, dated June 25th, 1777; a copy of a letter from General St. Clair to Major General Schuyler, dated June 30th, 1777; the proceedings of a Council of Officers held at Ticonderoga the 20th of June, 1777; a state of the guards and fatigue party, June 15th, 1777, from a copy of General St. Clair's orderly book; also an order from the said orderly book respecting the guards and fatigue party, June 23d, 1777; which, being read, are as follow:

Dear General, *Ticonderoga, June* 13, 1777.

HERE follows the substance of the information given by two men from Canada, taken prisoners by one of our parties on Onion River.

That General Burgoyne is arrived in Canada, but has brought no troops with him; that the British army is assembling as fast as possible at St. John's; that the light infantry, which they call the flying army, commanded by General Frazer, is already advanced to Point-au-Fer; that the whole army is said to consist of about ten thousand men, a part of which, with Indians under the command of Sir John Johnson, and Canadians under Captain Mackay, are to penetrate the country by the Mohawk River, whilst the rest of

the army under General Burgoyne crosses the Lake to attack this place; that their fleet (a particular account of which is in the inclosed letter to General Sullivan) is all in the Lake, and we may depend on their being here in a fortnight at farthest.

From the nature and circumstance of the pass granted to one of the two, which I here inclose, and his own account of the manner in which he was sent from Montreal, viz. to search plans of the country which he pretended to know were hid at Metcalf's, and his being possessed of a considerable sum of continental money, and some gold and silver, I have the strongest suspicion of his being a spy, and have secured him as such, and sent him down to you, both that you might have an opportunity to examine him yourself, and that, if you should think of him as I do, he might be tried at Albany, where, should he be found guilty, the sentence will probably be more adequate to the crime than here; for I find the officer, who lately suffered a spy he had in charge to escape, through the grossest misconduct, has been honourably acquitted by a Court Martial.

You will likewise find a letter from Col. Bailey, containing the intelligence brought by two Frenchmen sent down by General Gates. Though their intelligence differs very materially, they agree in the circumstance of General Burgoyne's arrival; and if these fellows have really been sent by him to see what we were about, there was no method more likely to procure them an easy reception than that of giving an account of the preparations in Canada, and carrying, or pretending to carry, letters from our friends. The letter to General Sullivan may notwithstanding be genuine, and Amsbury says it was written by one Michael Shannon. This name was found upon him on a separate piece of paper, in a fair hand, which he seemed unwilling to part with, and which I suppose to have been a private signal by which he was to be known upon his return.

If the enemy intend to attack us, I assure you, Sir, we are very ill prepared to receive them. The whole amount of continental troops, fit for duty, is 1576 rank and file, exclusive of Baldwin's artificers and Whitcomb's 52 rangers. Besides these there are three regiments of Hampshire militia, engaged for no particular term, and who go off whenever they please, 150 are gone since last return; two regiments of Massachusetts militia of 252 rank and file fit for duty, engaged for two months from their arrival, three weeks of which with some of them is already expired. Among the number returned sick there is no doubt but many would be useful in case of necessity, but at any rate we cannot reckon upon more than 2200 men. I am very much concerned to give you this disagreeable detail, but I have something worse to add to it.—We cannot increase our numbers by calling in the militia without ruin; for by the Commissary's return and the account of his weekly expenditure, there is meat for seven weeks only on the ground, and he has no prospect of any supply of salt meat, but from some place near Still-Water, nor of fresh, but by sending to New-England for it.——This I have desired him to do, but must own I have little prospect of advantage from it; for be assured that, and indeed every other communication, may and will very easily be cut off.——I have heard of some cattle below Crown-Point, which I shall send for to-morrow.

The bridge goes on tolerably well, but is indeed a very heavy troublesome job.——The cassoons, Col. Baldwin says, will be all sunk by the end of next week; in the mean time I have ordered the floating bridge to be removed to the lower side of them, which will serve as a kind of second boom, and retard at least, if not prevent, the enemy's vessels from passing, should they attempt it.

A magazine of wood should be laid in immediately, but how to effect it I know not, as there are no teams here of any kind, and not a stick upon the Mount.——

All the timber for the bridge is hauled out of the woods by hand, and employs a much greater number of men than would otherwise be necessary, and might be employed, and are wanted for other purposes.——What can the Quarter-Master mean by leaving this place, where so many works are to be carried on, without so necessary an article as draught cattle?

The tents here are in general very bad. I must beg you, my dear General, to hasten up the new tents, for I shall get no good of the troops here in any way, whilst they remain in barracks.

Our powder magazines are in so wretched a state, that I am told near fifty pounds of powder a week is damaged. In short, every thing is so much out of order, that I will add no more to this list of grievances, than to tell you we have no cartridge paper.

When I write again, I hope to have something more agreeable to entertain you with, and am,

With much esteem,

Your most obedient humble Servant,

A. St. CLAIR.

The Hon. Major General Schuyler.

I forgot to mention a paper in which Amsbury's money was wrapped and is also inclosed; it is blurred and blotted, but you will observe it contains a letter from Eph. Jones to his brother, dated June 2d, about the time Amsbury left Montreal, and is a corroborating circumstance of the fellow's ill design.

I should have called upon the militia but for the state of our magazine.—Should they come in fast, which I believe they would, they might eat us out before either the arrival of the enemy or a supply.——Please to give your directions on this head as soon as possible.

The batteaus are in ruin for want of pitch and tar, which Col. May says he has often wrote for.

Adams, the other of the prisoners, seems to be an innocent fellow, and whom Amsbury brought off with him without knowing his errand; he was taken by Mackay at the Sabbath Day Point.

Dear General, *Ticonderoga, June* 18, 1777.

INCLOSED you have the returns of the troops and stores at this place, all except the cloathier's, which is so drained I thought it needless to ask for any from him, as he has almost literally nothing.

Since my last I have had constant scouts out, but have made no discovery of the enemy, save that four of their vessels are lying about a mile on the hither side of the Split Rock; they consist of two ships, and two gondolas; and on Friday last a schooner beat up within four miles of Crown-Point, but, without landing any of her people, or coming to anchor, returned down the lake.

Yesterday about noon we had two men, who had strolled out of camp, without arms, taken by a party of savages, who had stole down to the road side betwixt M'Intosh's and the bridge, and concealed themselves in the bushes; they were immediately pursued as far as Putnam's Creek, but could not be overtaken; unluckily, however, they fell in with a scouting party I had sent down to discover the motions of the enemy, that were upon their return, and fired upon them unexpectedly; the officer is wounded, one man killed and scalped, and one missing, but whether taken or not is as yet uncertain.

Another party that I had ordered to proceed to Point-au-Fer, or wherever the enemy might be, returned last night on discovering a large party of Indians on the east side of the lake about four miles above Crown-Point. I think of sending to feel their pulse to-night, as I am sure it would be of consequence to give these fellows a drubbing.

I am at a loss to form a judgment of the designs of the enemy. If they mean to attack us, one would

think it indiscreet to put us on our guard by such a trifling affair, and yet I cannot think they could prevail with any number of the savages to come on, unless they had an army not far off to support them. Be that as it will, I shall use every precaution possible against surprize and will endeavour to penetrate their designs. The same reason, notwithstanding our weakness, still prevails against calling for the militia as when I wrote last, having as yet received no supply of meat either fresh or salt.

Do you know, Sir, any thing about the terms upon which Capt. Whitcomb's corps was raised. He informs me, that by General Gates's orders he promised his people that they should have the same bounty as the troops of the state in which they were raised, notwithstanding they were not part of their quota. This promise has not been complied with, and they are held by a conditional agreement only, which expires this day. I shall be able to retain them, however, until you favour me with your answer.

I am making some improvement upon the Mount, but that and the Ticonderoga side have such dependence upon, and connection with, each other, that in my opinion it will be very dangerous to give up either, and yet it is certain we cannot with our present numbers hold both. I design, however, to make the appearance of doing it, and after defending Ticonderoga as long as possible retreat to Mount Independence.

Our guards are crouded with tories; they are dangerous here, and cannot properly be tried. I have ordered them to Albany. *I am, c.*

A. ST. CLAIR.

Major General SCHUYLER.

The bridge goes on heavily, the cassoons not all sunk yet, but the timber is almost all cut, and in the water.

The officers of the fleet have not received commissions, and are very uneasy about it.

Dear General, *Ticonderoga, June* 24, 1777.

SERJEANT HEATH, who I sent down the Lake to make discoveries, returned last night, and informs me, that on Tuesday last he saw two birch canoes going down the Lake with sixteen Indians and three white men in them, and supposes it was the party that had done the mischief near the lines the day before—that, from a place near the mouth of Otter Creek, he saw three vessels under sail beating up, one at anchor about one mile above Split Rock, and the Thunderer behind it—from this place he likewise descried an encampment of the enemy on both sides of Gilliland's Creek—that from the appearance of it, and the extent, he thinks it must contain a great body of men, and that a number of smoaks arose at a distance back, which he supposed was from the encampment of the Indians,—that on Friday last, from Pointon, he saw twenty batteaus come out of Gilliland's Creek, and sail up the Lake past the Split Rock towards Ticonderoga—that one of the inhabitants in whom he could place confidence informed him the Indians were very numerous—that they frequently cross to the east side of the Lake, and that a party of them had been at his house a few minutes before his arrival—that he then returned to Otter-Creek, where he proposed to have halted to refresh his party, but on being informed that a large party of Indians were at one Briton's, he made the best of his way here—one of his party this day fell behind a little, and was either taken or deserted; he suspects the latter, because he both waited for him, and sent back to look for him—that one Webb, another inhabitant, informed him that the enemy had been four or five days at Gilliland's—that they came up with a vast number of batteaux and some gondolas—that some of the troops come over frequently, and say their whole army is there, and that they are only waiting the arrival of the rest of their vessels and stores, when they are to attack this place.

I have no doubt that a party of the enemy are at

Gilliland's, nor that their design is to come here, but not in my opinion to attack, but to harrass us, and give confidence to their savages, who, it is more than probable, would not have been prevailed upon to undertake it without being joined by some regular troops. Were they in force, it is improbable they would waste their time at such a distance, in a part of the country where they can find nothing to refresh themselves; and I do not find that they have made any depredations on the east side.

It is not easy to judge of the force at a distant view of an encampment, and Heath must have been six miles or more distant from that on Gilliland's Point, a distance too great to determine any thing with precision, although he had a glass to assist his eye; besides, I think the ground is not capable of encamping a great number (for he insists on it they are not upon the high ground, but upon the beach only) but of this you are a much better judge than me, as I never saw it but once: Be the matter as it will, I shall endeavour to guard against surprize, and to discover both them and their designs; and, if opportunity offers, feel their pulses a little.

I had all the ground between this and Crown-Point, from the Lake some distance over the mountains, well examined yesterday with a heavy scout, but they discovered no enemy, nor appearance of any: Whitcomb says he is certain there has not been an Indian but three in that quarter since the prisoners were taken, and that it was three or four days since these three had been there; so that the Indians said to have been about us, and fired at, were, I believe, the children of a disturbed imagination.

You had an exceeding bad time to cross the Lake, but I hope you got well over, and without any injury to your health, though it must have been exposed, as I doubt if you were not obliged to be out a second night. I shall write again to you by express the moment I

make any farther discoveries; and am, with much respect and esteem, *Dear General,*

Your most obedient humble Servant,

The Hon. General SCHUYLER. A. ST. CLAIR.

SIR, *Ticonderoga, June* 25, 1777.

I INCLOSE you a return of the troops at this post, by which you will see that our effective numbers are very little more than two thousand, a force greatly inadequate to its defence, which, should the enemy attack it in force, would require at least four times that number. In that two thousand are included a number of artificers, who are unarmed, and many of the soldiers are in the same condition, and the whole in very great want of cloathing, accoutrements and bayonets.

The intelligence I have received of the enemy's approaching, I have from time to time transmitted to General Schuyler, of which I make no doubt he has apprised Congress. It is now past a doubt that they are moving towards us, but whether in force or not I have not yet been able to discover. Seven of their vessels came up to Crown-Point last night, and others of their fleet are about three or four miles lower down, as we judge from their morning guns. They have also landed some troops, who are encamped upon Chimney-Point, which lies on the east side of the Lake, directly opposite to Crown-Point. If the militia were called in, they might possibly enable us to keep possession, but I have not yet ventured upon that step, on account of the low state of our provisions, there not being more than thirty-five days meat for the troops now here, and the uncertainty in which we were with regard to the enemy's designs.

No army was ever in a more critical situation than we now are; and, supposing that this motion is only a feint to favour the operations of General Howe, which I still suspect it to be, we may, and probably will, be reduced to the greatest distress, the supplies being derived from such a distance, and the communication

so difficult, that it is next to impossible to support it. The extensiveness of our works adds greatly to our embarrassment, and will demand so great constant guards, as must in a very short time wear down our troops, and do the enemy's business for them; and should we give up one side of the Lake, and confine ourselves to the defence of the other, they would infallibly cut off our communication, and reduce us by famine.

My duty to my country, and to myself, obliges me to make these representations; nevertheless, I shall leave nothing undone within my power to frustrate the attempts of the enemy, nor leave any means untried to penetrate their real designs. If I am happy enough to make any material discovery, I shall take the earliest opportunity to give information to Congress; and although I may at last be obliged to evacuate this place, I hope to make them pay dear enough for it, to repent of their bargain. *I have the honour to be, Sir,*

Your most obedient Servant,

A. ST. CLAIR.

The Hon. JOHN HANCOCK, *Esq;*
President of Congress.

Ticonderoga, June 30, 1777, *half past one.*

Dear General,

THIS morning some of the enemy's gun boats appeared at the Three Mile Point, when the alarm was given. We could see them disembark a number of men, and the boats increased to eighteen, which are now lying a breast from the hither side of the point to about half way across the lake. The batteaus in which they transported their troops are not come in sight, lying on the far side of the point, under cover of it.

Soon after their landing a party, chiefly Indians and Canadians, pushed towards our lines. As we had a scout down the lake at the time of their arrival, I immediately sent out two parties to support and bring them off. The scout fell in with the enemy, and after

a few shot, in which they say some of the Indians were killed, they, being overpowered by numbers, dispersed, and part of them are got in, and I have little doubt but the greatest part of them will yet make their appearance. It is probable, however, that some of them have fallen into their hands. We have had one or two alarms before this, but it was occasioned by their boats coming up near our guard boats, and their firing upon them.

My people are in the best disposition possible, and I have no doubt about giving a good account of the enemy, should they think proper to attack us; and if the person I mentioned to you in my last pursues the opportunity that now presents itself, they will go back faster than they came on. He has above a thousand men. *I am, dear General,*

Your most obedient Servant,

A. ST. CLAIR.

Hon Major General SCHUYLER.

At a COUNCIL *of General Officers, held at* Ticonderoga, *on* Friday, *the 20th day of* June, 1777.

PRESENT.

Major General SCHUYLER,	Brigadier General POOR,
Major General ST. CLAIR,	Brigadier General PATTERSON.
Brigadier General FERMOY,	

GENERAL SCHUYLER requested the Council to take into consideration the state of this post, with respect to the number of troops necessary for its defence, the disposition of the troops, and mode of defence, the state of the fortifications, and the quantity of provisions that may be depended upon.

The Council, having taken into their most serious consideration the several matters stated in the first article, are clearly and unanimously of opinion,

First. That the number of troops now at this post and Mount Independence, which are under 2500 ef-

fectives, rank and file, are greatly inadequate to the defence of both posts.

Second. That both posts ought, nevertheless, to be maintained as long as possible, consistent with the safety of the troops and stores.

Third. That if it shall become necessary to evacuate one or other of the posts, and that it remains in our election which, that it ought to be the Ticonderoga side.

Fourth. That such cannon and stores as are not immediately necessary on the Ticonderoga side be removed, without delay, to Mount Independence.

Fifth. That the fortifications and lines on Mount Independence are very deficient; and that the repairing the old, and adding new works, ought to claim immediate attention; and that the engineers be directed to repair and make the necessary fortifications.

Sixth. That the obstructions in the Lake to prevent the enemy's naval force from getting into our rear, and thereby cutting off all supplies, or preventing a retreat, if such a measure should unhappily become indispensably necessary, ought to be compleated with all imaginable dispatch.

Seventh. That so much remains to be done effectually to compleat the obstruction, that, with the few troops we have, there is no great probability that it can be done in less than six weeks.

Eighth. That although our force may be adequate to maintain our ground on Mount Independence, yet, unless a sufficient stock of provision can be thrown in before the arrival of the enemy, we having now only thirty-nine days provision of meat kind, we think it would be imprudent to expose the army to be made prisoners by the enemy; and that, therefore, it is prudent to provide for a retreat, to effectuate which, that all the batteaus now at this post be immediately repaired, and as many as can be spared out of the Lake George be brought hither.

Ninth. That a quantity of provision of the meat

kind should, if possible, be immediately forwarded from Albany or else-where.

Tenth. That immediate application be made to his Excellency General Washington for a reinforcement to be sent on with all expedition.

PHILIP SCHUYLER, ENOCH POOR,
ARTHUR ST. CLAIR, JOHN PATTERSON.
DE ROCHE FERMOY,

Head-Quarters, June 15, 1777.

AFTER ORDERS.

THE Guards, in future to consist of 1 Captain, 5 Subalterns, 5 Serjeants, 9 Corporals, 2 Drums and Fifes, and 128 Privates, are, till further orders, to be furnished in the following proportions:

	Cap.	Sub.	Ser.	D. & F.	Cor.	Privates.
Fermoy's Brigade,	1	2	2	1	4	36
Poor's Ditto,	0	1	1	1	2	58
Patterson's Ditto,	0	1	2	0	3	34
	1	4	5	2	9	128

And are to be posted in the following Manner:

	Cap.	Sub.	Ser.	D. & F.	Cor.	Privates.
Main Guard,	1	2	2	2	2	42
Jersey Redoubt Ditto,	0	1	1	0	2	30
French Line Ditto,	0	1	1	0	2	30
Head-Quarters Ditto,	0	0	1	0	2	18
Quarter-Master's Ditto,	0	0	0	0	1	8
	1	4	5	2	9	128

A Picket Guard, consisting of 1 Captain, 3 Subalterns, 3 Serjeants, 3 Corporals, and 50 Privates, to be furnished in the following proportion till further orders:

	Cap.	Sub.	Ser.	D.& F.	Cor.	Privates.
Fermoy's Brigade,	1	1	1	0	1	14
Poor's Ditto,	0	1	1	0	1	16
Patterson's Ditto,	0	1	1	0	1	20
	1	3	3	0	3	50

They are to parade at sun-set on the grand parade, and be posted on the eminence to the right of the French Line. The Field Officer of the day is to see that centries are posted from Lake Champlain to the communication with Lake George.

The following Detail for Fatigue is to be furnished till further orders, and to parade at 6 o'clock:

	Cap.	Sub.	Ser.	D.& F.	R. & F.
Fermoy's Brigade,	1	3	3	1	87
Poor's Ditto,	1	4	4	2	136
Patterson's Ditto,	1	3	3	2	103
	3	10	10	5	326

Head-Quarters, June 23, 1777.

General St. Clair's ORDERS.

THE Guards are to be posted in the following manner till further orders:

	Cap.	Sub.	Ser.	Cor.	Drum.	Privates.
Main Guard,	1	1	2	2	2	30
Jersey Redoubt,	0	1	2	2	0	30
Head-Quarters,	0	0	1	2	0	15
French Lines,	0	0	1	2	0	12
Batteaus,	0	0	0	1	0	8
	1	2	6	9	2	95
For Guards. Poor's,	1	1	3	4	1	51
For Guards. Patterson's,	0	1	3	5	1	44
	1	2	6	9	2	95

Details for Mount Independence:

		Cap.	Sub.	Ser.	Cor.	Drum.	Privates.
For Guards.	Fermoy's,	1	1	2	2	1	42
	Long's,	0	2	2	2	1	36
		1	3	4	4	2	78
For Fatigue.	Fermoy's,	1	4	4	0	2	130
	Long's,	1	4	4	0	2	120
		2	8	8	0	4	250

The Judge Advocate produces a copy of a return of provisions, &c. at Ticonderoga the 25th of May, 1777, which the Court adjudge improper evidence, on account of its being prior to the time Major General St. Clair took the command of the posts of Ticonderoga and Mount Independence.

The Judge Advocate produces a copy of a return of provisions and stores remaining on hand at Ticonderoga and Mount Independence, June 20th, 1777; a general return of the troops at Ticonderoga, June 14th, 1777; a general return of the troops at Ticonderoga, June 28th, 1777; and the proceedings of a Council of General Officers held at Ticonderoga, July 5th, 1777; which, being read, are as follow:

A RETURN of Provisions and Stores, &c. remaining on hand at Ticonderoga *and* Mount Independence.

Flour, 13 tierces and 2015 barrels; beef, 195 barrels; pork, 784 barrels; brown sugar, 15 barrels; hog's lard, 3 barrels; coffee, 1 barrel; soft soap, 24 barrels; pot-ash, half a barrel; pearl-ash, half a barrel; rum, 4 tierces; molasses, 3 hogsheads; chocolate, 12 boxes; candles, 20 boxes; hard soap, 39 boxes; hard bread, 48 barrels; pease, 53 and two thirds skipples; salt, 4 hogsheads, 5 tierces and 3 barrels; wine, 3 barrels; Indian meal, 2 tierces.

By the last regular returns 4247 rations per day are issued, besides what are issued by General Orders, and delivered the general hospital.

JAMES JANCEY, D. C.

20th *June*, 1777.

A GENERAL *RETURN of the Troops at this Post, commanded by the Hon. Major General* ST. CLAIR.

Ticonderoga, June 14, 1777.	Officers present.													Rank and File.						Wanting to compl.			Altera. since last Return.				
	Comissioned.					Staff.						Non com.															
Regiments.	Colonels.	Lieut. Cols.	Majors.	Captains.	Subalterns.	Chaplains.	Adjutants.	Qr. Masters.	Surgeons.	Mates.	Pay-Masters.	Serjeants.	Dr. & Fifes.	Present, fit for Duty.	Sick, Present.	Sick, Absent.	On Command.	On Furlough.	Total Rank and File.	Serjeants.	Drs. & Fifes.	Rank and File.	Inlisted.	Joined.	Dead.	Deserted.	Discharged.
Long's,	1	1	1	6	16		1	1	1		1	18	1	90	37		27		154	6	11	326					
Marshall's,	1	1		7	12		1	1		1	1	21	10	143	39	3	103	1	289	7	4	351		1			
Brewer's,	1	1	1	5	12		1	1	1	1	1	21	10	81	23	1	115		220	11	6	420		3			
Francis's,	1	1	1	7	18	1	1	1	1	1	1	27	11	243	43	2	131		419	5	5	221		3		1	
Jackson's,			1	1	4					1		13	3	40	12	8	26		86	19	13	554					
Cilley's,	1	1		7	16	1	1	1				27	13	284	76	2	29		391	5	3	249		10	1		
Scammel's,	1	1	1	6	13		1	1			1	23	13	217	50	2	77		346	5	1	294		26		1	1
Bradford's,		1	1	4	12			1	1	1		19	7	137	21		44		202	9	7	358		1	1	2	
Hale's,	1	1	1	8	16		1	1	1	1	1	31	14	196	61	2	67		326	1	3	314		22		1	1
Warner's,	1	1		6	13		1	1		1		22	12	111	18	1	39	1	170	10	4	470		1			
Baldwin's Artificers, &c.	2		1	3	1			1				1		121	3		1	2	127								
Whitcomb's & Lee's Rang.				3	5							9	3	50	10	1			61					1			
Leonard's Militia,	1	1		6	15		1	1	1	1		26	7	176	46	3	54		279					27			
Wells's Ditto,	1	1	1	7	12		1	1	1			28	8	145	68	4	92		309								
Bellows's Ditto,																											
Total.	12	11	9	76	165	2	10	12	7	8	6	286	112	2034	507	29	805	4	3379	78	57	3557		95	2	5	2

RETURN of Artillery, commanded by Major STEVENS.

Ticonderoga, June 14, 1777.	Officers present.															Matrosses.						Wanting to compleat.						Altera. since last Return.				
	Commission.					Staff.						Non. Commis.																					
Corps.	Major.	Captains.	Capt. Lieuts.	First Lieuts.	Second Lieut.	Chaplain.	Adjutant.	Qr. Master.	Com. Stores.	Surgeon.	Conductors.	Serjeants.	Corporals.	Bombardiers.	Gunners.	Fifes.	Drums.	Present, fit for Duty.	Sick, Present.	Sick, Absent.	On Command.	On Furlough.	Total.	Serjeants.	Corporals.	Bombardiers.	Gunners.	Dr. & Fifes.	Matrosses.	Inlisted.	Joined.	Deserted.	Discharged.	Dead.
Total.	1	4	4	4	10				1	1	2	20	20	16	17	3	4	103	10	6	4		123	4	3	8	7	2	30			1		

A GENERAL *RETURN of the Troops at this Post, commanded by the Hon. Major-General* ST. CLAIR.

Ticonderoga, June 28, 1777.	Officers present.												Rank and File.						Wanting to compl.			Altera. since last Return.				
	Commissioned.					Staff.						Non com.														
Regiments.	Colonels.	Lieut. Cols.	Majors.	Captains.	Subalterns.	Chaplains.	Adjutants.	Qr. Masters.	Pay-Masters.	Surgeons.	Mates.	Serjeants.	Dr. & Fifes.	Present, fit for Duty.	Sick, Present.	Sick, Absent.	On Command.	On Furlough.	Total.	Serjeants.	Drs. & Fifes.	Rank & File.	Inlisted.	Joined.	Dead.	Discharged.	Deserted.
Marshall's, - - -	1	1		7	12		1	1	1		1	20	11	126	36	4	123	3	292	8	3	348		1		2	
Hale's, - - -	1	1	1	8	17		1	1	1	1	1	31	13	212	58	2	87		360	1	3	283		14		1	
Bradford's, - - -		1	1	6	15			1		1	1	27	10	265	17		51		333	5	6	307		104			
Scammel's, - -	1	1	1	6	11		1	1	1	1	1	25	15	153	71	12	126	1	363	2	1	277		4			
Cilley's, - - - -	1	1	1	7	14	1	1	1	1	1	1	24	12	193	88	2	113		396	3	2	244		5	1		
Jackson's, - - -			1	1	3						1	11	3	45	11	7	22		85	19	13	555					
Brewer's, - - -	1	1	1	8	13		1	1	1	1	1	21	10	144	15	1	92		252	11	6	388		27			
Francis's, - - -	1	1	1	8	20	1	1	1	1	1		30	13	206	49	4	161		420	2	3	220				3	
Warner's, - - -		1		7	15	1	1	1		1		24	10	99	25	1	48		173	8	6	467		7	1		1
Long's, - - -	1	1	1	6	16		1	1	1	1		18	1	91	38		25		154	6	11	326					
Leonard's Militia, - -		1		6	15		1	1		1	1	26	7	192	63	2	22		279								
Wells's Ditto, - -	1	1	1	7	11		1	1		1		28	8	197	44	4	64		309								
Whitcomb's Rangers, -				2	4							6	3	19	14		2		35	1	1	71					
Lee's Rangers, - -				1	2							3	1	23					23			20					
Baldwin's Artificers, &c.	2		1	4	1			1				2		124	3		1	2	130							1	
Total.	10	11	10	84	169	3	10	12	7	10	8	296	117	2089	532	39	937	6	3604	66	55	3506		162	2	7	1

Artillery and Artificers, commanded by Major STEVENS.

Ticonderoga, June 28, 1777.	Officers present.																Matrosses.						Wanting to compleat.						Altera. since last Return.				
	Commission.					Staff.						Non Commis.																						
Corps.	Major.	Captains.	Capt. Lieut.	First Lieut.	Second Lieut.	Chaplain.	Adjutant.	Qr. Master.	Pay-Master.	Com. Stores.	Surgeon.	Serjeants.	Corporals.	Bombardiers.	Gunners.	Conductors.	Dr. & Fifes.	Present, fit for Duty.	Sick, Present.	Sick, Absent.	On Command.	On Furlough.	Total.	Serjeants.	Corporals.	Bombardiers.	Gunners.	Dr. & Fifes.	Matrosses.	Inlisted.	Joined.	Dead.	Deserted.	Discharged.
Establish. Artillery,	1	3	2	3	9					1	1	17	16	16	16	2	7	51	8	3	3			6	2	2	1		17			1	3	
Temp. Draughts, -		1	1	1	8							10	11	2	1		1	199	1				200										
Carriage-makers, &c.		1			2													33	5				38										
Total.	1	5	3	4	19					1	1	27	27	18	17	2	8	283	14	3	3		238	6	2	2	1		17			1	3	

JAMES WILKINSON, Deputy Adjutant-General.

At a COUNCIL *of General Officers, held at* Ticonderoga, July 5*th*, 1777.

PRESENT.

Major General ST. CLAIR, Brigadier General FERMOY, Brigadier General POOR,	Brigadier General PATTERSON, Colonel Commandant LONG.

GENERAL ST. CLAIR represented to the Council, that as there is every reason to believe that the batteries of the enemy are ready to open upon the Ticonderoga side, and that the camp is very much exposed to their fire, and to be enfiladed on all quarters; and as there is also reason to expect an attack upon Ticonderoga and Mount Independence at the same time, in which case neither could draw any support from the other; he desired their opinion, whether it would be most proper to remove the tents to the low ground, where they would be less exposed, and wait the attack at the Ticonderoga lines, or whether the whole of the troops should be drawn over to Mount Independence, the more effectually to provide for the defence of that post. At the same time the General begged leave to inform them, that the whole of our force consisted of 2089 effectives, rank and file, including 124 artificers unarmed, besides the corps of artillery, and about 900 militia who have joined us, and cannot stay but a few days.

The Council were unanimously of opinion, that it is impossible with our force to defend Ticonderoga and Mount Independence, and that the troops, cannon and stores, should be removed this night, if possible, to Mount Independence.

Second. Whether, after the division of the army at Ticonderoga have retreated to Mount Independence, we shall be in a situation to defend that post; or, in case it cannot be defended, if a retreat into the country will be practicable.

The Council are unanimously of opinion, that, as the enemy have already nearly surrounded us, and there remains nothing more to invest us compleatly but their occupying the neck of land betwixt the Lake and the East Creek, which is not more than three quarters of a mile over, and possessing themselves of the Narrows betwixt and Skeensborough, and thereby cutting off all communication with the country, a retreat ought to be undertaken as soon as possible, and that we shall be very fortunate to effect it.

ARTHUR ST. CLAIR,
DE ROCHE FERMOY,
ENOCH POOR,
JOHN PATTERSON,
PIERSE LONG.

Mr. Avery, Deputy Commissary General in the Northern Department, being sworn,

Q. What Quantity of provision was at Ticonderoga and Mount Independence the 13th of June, 1777?

A. I cannot particularly ascertain the quantity of provision, as I had no particular return at that time, but to the best of my recollection General St. Clair wrote me the 15th or 16th of June, that there was seven weeks provision on hand at Ticonderoga, Mount Independence and its dependencies.

General St. Clair's question. What was the general purport of my letter to you?

A. The general purport was informing me that there was such a quantity of provision there. That you thought it too small a quantity; and if I did not forward on more, you would leave me to judge what the consequence would be to myself.

General St. Clair's question. Did you receive a letter from General Schuyler about the same time, and upon the same subject?

A. Yes.

General St. Clair's question. Do you recollect the purport?

A. Much the same as your's was; complaining of the quantity of provision at that post being too small, and urging an immediate supply.

Mr. Yancey, who superintended the Issuing Commissary's Department at Ticonderoga and Mount Independence, being sworn,

Q. Were any supplies of provision received at Ticonderoga or Mount Independence between the 20th of June and 6th of July, 1777?

A. I left Ticonderoga the 21st of June in order to purchase cattle. I purchased myself twenty-one cattle, and sent forward to Ticonderoga twenty of them. The other I sent forward, with thirty oxen and steers delivered me by Mr. Avery's order, all to Ticonderoga. There were a few cattle also sent on in company with these for the hospital. I do not know their number. The first was sent on the 26th of June; the place from where they were sent was called Paulett. The next was the 27th of June, place called Manchester.

Q. Do you know whether these cattle arrived at Ticonderoga or Mount Independence?

A. Not from my own knowledge. I understood that one, two or three of the cattle were made use of by Colonel Warner, who took them under his care to drive them into Ticonderoga, and I understood that they arrived there, but only from information.

Q. Court. What quantity of provision was issued the 20th of June as a ration?

A. I do not, at present, exactly know what quantity was issued as a ration at that time. The artificers received one ration and a half.

Q. Court. What quantity of provision was daily issued by the General's orders, and to the general hospital?

A. I do not know. The general hospital was sometimes supplied by my magazine, but not steadily. The general officers and their families, and several of the field and some other officers, drew what they pleased on account.

General St. Clair's question. Where could the general hospital have been supplied with provision, unless it was from your magazine?

A. I do not know from any place with respect to fresh provision, unless they sent out and purchased it. The salt provision and flour could be got from me only.

General St. Clair's question. Was there any country in the neighbourhood from which they could have been supplied?

A. None nearer than the Hampshire Grants.

General St. Clair's question. When you made the return of the 20th of June, did you count the barrels of provision yourself, or did you make up your return from the returns made to you?

A. I did not count the barrels of provision. I made the return from the entries of my peoples receipts and deliveries.

Q. Court. When did the book of accounts commence from which you made your return?

A. I believe the first of December, 1776.

General St. Clair's question. Had there not been, from time to time, a considerable quantity of provision condemned at this post?

A. I sent some packers to Ticonderoga in March, 1777, to repack the provision. They returned to me I think in April, and I saw when I got up to Ticonderoga an account of damaged provision amongst my papers, amounting to about twenty-eight barrels of beef or pork, but I am pretty confident the twenty-eight barrels of beef or pork were not included in the general return of the 20th of June, but I cannot undertake to say there was no damaged provision amongst the quantity mentioned in the return of the 20th of June.

General St. Clair's question. Did you know, when you were sent to purchase fresh provision, of any magazine of salt provision in the vicinity of Ticonderoga, from which you could have supplied that garrison?

A. I knew of salt provision having been carried forward from Bennington and William's-Town to St. Coack, but I do not know the quantity.

General St. Clair's question to Mr. Avery. Did you order salt provision from St. Coack or Stillwater to Albany?

A. I ordered a small quantity from Stillwater, the magazine at Albany being empty of salt provision at the time. It was some time in the month of June, as near as I can recollect.

Question to Mr. Avery. How long did the magazine at Albany remain empty, and did any supply of provision arrive between that time and the 6th of July?

A. There was some provision arrived at Albany, but what quantity I cannot tell, but not much more than was sufficient for the supply of the troops that were there.

General St. Clair's question to Mr. Avery. Did you write to General Schuyler, that you were deceived by your Purchasing Commissaries?

A. I do not remember that I did; but I do not know but I might have wrote to General Schuyler that they had not collected the quantity that I expected.

The Court adjourned till to-morrow, nine o'clock.

AUGUST 26th.

The Court met according to adjournment.

The Judge Advocate produces several extracts from a copy of General St. Clair's orderly book, which, being read, are as follow:

Head-Quarters, June 25, 1777.

General St. Clair's ORDERS.

THE troops are ordered to be under arms on their respective alarm posts to-morrow morning at gun fire, where they are to remain till they are dismissed.

AFTER ORDERS.

All the troops who have their musquets loaded are ordered to discharge them immediately after roll-call; the officers will see the arms properly cleaned.

Head-Quarters, June 26, 1777.

In case of an alarm on Mount Independence, two cannon are to be fired from the upper battery; and in case of an alarm at the French lines, two pieces are to be fired there; the signal from the advanced boats is to be answered by one cannon from the Jersey redoubt, which is to be followed by a discharge from Mount Independence, that is to be answered by the French lines.

Head-Quarters, June 29, 1777.

A scout, consisting of a subaltern, serjeant, and twenty privates, to be alternately furnished by the brigades on each side of the Lake, and to be sent out every morning, one hour before gun fire.

Detail for Fatigue.

	Cap.	Sub.	Ser.	Cor.	Drum.	Privates.
Fermoy's Brigade,	1	3	3	0	2	100
Poor's,	1	2	2	0	1	60
Patterson's,	1	2	2	0	1	50
Long's,	1	3	3	0	2	100
	4	10	10	0	6	310

The fatigue, till further orders, is to go on duty precisely at six o'clock, to return at eleven o'clock, to parade again at two, and work till six.

Mr. Leavenworth, being sworn, says: I arrived at Ticonderoga the 9th of March, and tarried there until the retreat. About three weeks before the retreat, as near as I can remember, it was reported that the enemy were at Split Rock, and I heard guns some days that were said to be their evening and morning guns. I also heard General St. Clair give out he thought that the enemy were between six and seven thousand strong. On the 26th of June I made report to General St. Clair of the tallow in my possession, the quantity being great. He said he would give directions about it, and said also that the Commissary

ought to have taken care of it, and had it worked up. General St. Clair took occasion to mention that the Commissary had not only neglected his duty in that instance, but also had neglected it in not sending on the supplies of provision. I did not hear any thing more about it, and on Wednesday before the retreat I went to General St. Clair respecting it, who said it was the Commissary's business, and he ought to have taken care of it, and blamed him again on account of provision, and said there were but a few days provision. I told him I thought there was more. All the provision had been removed from Ticonderoga to Mount Independence, and on Thursday or Friday I went to Mount Independence to satisfy myself respecting the quantity of provision there, and I think there were full three thousand barrels of beef, pork and flour there, from the appearance of them. I did not count them. This was a larger quantity than appeared to be there on the twenty-sixth of June. On Wednesday before the retreat I was at Head-Quarters, and observed it was entirely stripped of the baggage, and in consequence of it I put my baggage in a boat, and sent it to Mount Independence. Having received no orders about the tallow, I desired some gentlemen to speak to the General about it, and on Saturday morning the enemy made their appearance on Mount Defiance, when, talking to some gentlemen respecting the tallow, one of them said I had done enough to exculpate myself respecting it, and gave me to understand that we were to retreat that evening, and told me not to let it be known by words or actions, and told me not to regulate my conduct by it so that it might be known. It was General Poor who told me of it. On Saturday evening, at gun firing, I went into my boat with my people, and went to the south-west point of Mount Independence, and I continued in my boat and on the point of Mount Independence all night. Between eleven and twelve o'clock at night, one Serjeant Bond came down, who told me that he

came down to see what boats were there. That between twelve and one o'clock, a party of men came down to the Scotchman's, and took the boats up to the Crane, as they said, to load with provision, and at day light began to return, and I went off with my boat in company with the first boats. The cannon began to be removed (when General Schuyler was present) from Ticonderoga to Mount Independence, and continued to be removed after General Schuyler's departure, as were quantities of artillery stores.

Q. Did any quantity of provision arrive at Ticonderoga or Mount Independence from the 20th of June to the time of the evacuation, either from Fort George or Skeensborough?

A. Not to my knowledge.

Q. Did any number of cattle arrive at Ticonderoga or Mount Independence between the 20th of June and the time of the evacuation?

A. I saw cattle that Colonel Warner said he brought in with him. I thought I saw (from the idea I now have) about forty head.

Q. Were any parties sent out to annoy the enemy, by order from General St. Clair, in their advance against, and investiture of, the posts under his care, to your knowledge?

A. The enemy came to Three Mile Point, and I have seen parties go out of about twenty men in a party. I know of none sent out to oppose the enemy's progress.

Q. Court. What kind of ground was it between Three Mile-Point and Ticonderoga?

A. I have not been over the whole of the ground, but over part of it; there are some cleared fields next to the Lake, and woods back. This is all the description I can give of the ground.

Q. Were the troops under General St. Clair healthy, courageous, and desirous of improving every advantage against the enemy?

A. Yes.

Q. Court. What reason had you to think the troops were healthy, courageous, and desirous of improving every advantage against the enemy?

A. In the first place, with regard to their being healthy, I had occasion to be at the hospital several times after the enemy came near to us, and I did not see many sick there, and it was generally reported that the army was healthy. After I was apprehensive that we were to retreat, I took pains to enquire of a number of officers of my acquaintance, indirectly, whether the troops were courageous, and determined to fight, should the enemy come on, and they all answered in the affirmative.

Q. Court. Was it your opinion, and the opinion of the officers you indirectly asked whether the troops were courageous and determined to fight, that the place was defensible?

A. I did not ask any of the officers whether the place was defensible. It was my own opinion that the place was not defensible in the circumstances it then was.

Q. Court. What do you mean by the circumstances it was then in?

A. In the first place, the lines were very extensive, so that there were not men enough on the ground to man them: Another circumstance was, the enemy had got possession of the heights about us: Another was, the heavy cannon, artillery stores, and all the provision, were removed from Ticonderoga to Mount Independence; and the reason why Mount Independence could not be defended was, that there were not works thrown up suitable to cover the men. Great part of the provision that was carried over to the Mount was, at the time of the retreat, at the foot of the Crane. The distance from the place the provision lay, to the top of the Mount, was about two hundred feet.

Q. Was any thing done at Mount Independence between the 20th of June and the 6th of July, 1777, towards repairing the old works there, and adding new works?

A. I was not at the south end of Mount Independence, but I heard there were some small works flung up there. The north end of Mount Independence appeared to me as usual on the Thursday or Friday preceding the evacuation. I saw no new fortifications on it, nor any additional works. I know there were no new fortifications where I expected there would have been some built.

Q. Did General St. Clair send his son and baggage to Fort George, as a place of safety, before his evacuation of the posts of Ticonderoga and Mount Independence?

A. I don't know that he did of my own knowledge.

Q. Were the sick, the public stores of ammunition, cannon, provision and cloathing left behind, when the posts of Ticonderoga and Mount Independence were evacuated?

A. Some of the sick were carried off, which I saw. I know nothing respecting the other particulars.

Q. What time was it you heard General St. Clair give out that the enemy were between 6 and 7000 strong?

A. It was said by General St. Clair while the enemy lay at Split Rock. I believe about a fortnight before the evacuation.

Q. Court. Would the provision be (lying at the foot of the Crane) under the enemy's fire, after Ticonderoga should be in their hands?

A. They were within cannon shot of Ticonderoga, and the enemy must have commanded the Lake.

General St. Clair's question. Were there not parties constantly at work, getting up the provision from the bottom to the top of the Mount?

A. There was a party at work when I went to see what provision was there, and I suppose there was a party constantly at work. It was reported so.

General St. Clair's question. At what time of the day was it on Saturday that General Poor gave you the information of the evacuation being likely to take place?

A. It was in the morning before breakfast. I don't know the time of the day. I took it General Poor was going to Head-Quarters.

General St. Clair's question. What quantity of tallow had you in your possession?

A. One hundred and fifty-four barrels. If I remember right, there were 34,345 lbs.

General St. Clair's question. Had you ever made any report of the tallow to me before the 26th of June?

A. No.

General St. Clair's question. You have mentioned several times that I gave out that the enemy were between 6 and 7000 strong. I should be glad to know whether it was to you I told it, or how you came to be acquainted with it?

A. I don't recollect the circumstances but at one time; that was on the day it was said the scout returned from Split Rock. I was at Head-Quarters, and I heard you observe to several officers who were there, that the enemy were between 6 and 7000 strong.

General St. Clair's question. Do you recollect the company who were there?

A. I can't recollect any person particular, but I think General Patterson was there.

General St. Clair's question. Did you ever hear me say that the enemy were lying at Split Rock, to the amount of any number of troops?

A. You did not say that the enemy lay at Split Rock, but that they consisted of about the number before-mentioned.

General St. Clair's question. Do you know of any action between any of the parties from Ticonderoga and the enemy?

A. I heard of some people being killed and scalped between the breast-work and Ticonderoga landing, and I think there was a scalp brought in by some of Whitcomb's people.

General St. Clair's question. Do you know of any larger parties than twenty men being sent out?

A. I don't recollect any.

General St. Clair's question. You have mentioned Head-Quarters being stripped of baggage. I should be glad to know what kind of baggage you observed had been removed from thence?

A. I don't recollect particular things.

General St. Clair's question. What kind of baggage had you ever observed there?

A. I had observed utensils, such as drinking glasses, one chair, a table and a vallese; but all the utensils I saw in the room at this time was one bowl, except a table and stools.

General St. Clair's question. Did you ever see any thing removed from Head-Quarters?

A. I cannot say absolutely that I did.

General St. Clair's question. Do you know whether there were parties employed in forming an abbitis about Mount Independence, at any time between the 20th of June and the evacuation?

A. I do not.

General St. Clair's question. Did you ever see parties of axe-men sent over there?

A. I saw parties of axe-men go off the parade often, but I did not know where they went, nor did I ask them to my knowledge.

General St. Clair's question. Do you know whether the parties of axe-men you saw go off the parade were employed on the Ticonderoga side?

A. I do not.

General St. Clair's question to Mr. Yancey. Did you ever report to me that there was an ounce of tallow at Ticonderoga, or did it appear in any return of your's?

A. I don't believe that I ever told you any thing about it, or made any return to you of it.

The Court adjourn to the house of Capt. Rathburn, in King-Street, until Friday next, at nine o'clock.

AUGUST 28th.

The Court met at Captain Rathburn's, in King's-street, according to adjournment.

Major General St. Clair admits that he wrote a letter to the Hon. John Jay, dated July 25th, 1777, in which there was a sentiment, in substance, that if the General Officers had been against the evacuation of the posts of Ticonderoga and Mount Independence, it would have taken place, as he knew it would be impossible to defend the posts with his numbers.

Lieutenant Colonel Hale being sworn,

Q. Were you at Ticonderoga or Mount Independence when the evacuation of those posts took place?

A. I was on Mount Independence.

Q. Did you command a regiment?

A. I was Lieutenant Colonel of Colonel Leonard's regiment of Massachusetts militia.

Q. Was the time of service of this regiment nearly expired when the evacuation of Ticonderoga and Mount Independence took place?

A. It was nearly expired, as they viewed it, and I think within two or three days from the time of the evacuation.

Q. What do you mean by the terms, as they viewed it?

A. I mean the men viewed their time of service to have commenced from the time they were raised, and the time they drew pay from. They, I understood, founded this belief from the order of the Brigadier, which was that they were raised for two months service; which, when I shewed General St. Clair, he said it was different from the order of the Court. The order of the Court was, that they should serve two months from the time of their being on the ground, to the best of my remembrance.

Q. Did you inform General St. Clair that the men viewed their time of service to be nearly expired, and when it took place were determined to go home?

A. After I had heard something said among the people that they viewed their time of service as nearly out, and it was talked among them if they staid they should get no pay, I spoke to them that the enemy were near, and that was the only time, if they came to do any thing, that it was to be done. I also spoke to some of the officers, with regard to the time of service being nearly out, and told them I would inform the General of the circumstances. After this, on Saturday preceding the evacuation, I waited on General St. Clair, to let him know what the regiment thought respecting these matters, and invited Lieut. Colonel May, the Colonel of the other Massachusetts regiment, to go with me. We went, and I informed General St. Clair of the circumstances I have related, and told him their uneasiness with respect to drawing their money on the ground ; who told me, that if they made up their rolls their money was ready for them. Lieutenant Colonel May and myself shewed the General the Brigadier's order, and the General said it was different from the order of the Court. The men also made an excuse that they had not been invited to stay. When we informed General St. Clair of the circumstances, he said the men must not go away by any means if they were disposed to go, and told me to write a certificate of the matter, and said perhaps I shall give them a small bounty, and said your certificate will justify me for so doing. The General said he would let the matter rest till morning and think on it, and would send word to me in the morning what proposals to make to the regiment. I went and told the officers of it that night, who appeared to be well satisfied. It was near night when we parted from the General.

General St. Clair's question. Do you not recollect your mentioning to me, or Lieutenant Colonel May, that the men considered their time nearly out, and were determined to go home when it was out, and suggested to me that probably a small bounty might induce them to stay ?

A. I do not recollect it.

General St. Clair's question. What do you conceive the men understood by their saying that they were not invited to stay?

A. Upon some of the men saying that their times were nearly out, I told them they must stay longer if there was an occasion for it. They said they had not been invited to stay, and supposed, if they staid, they should get no pay for it. I considered it only as an excuse of theirs, that they should not get pay if they staid after their time was out.

Q. Court. Had you ever before the Saturday informed General St. Clair of the mens opinion of the short time they had to stay?

A. I had not.

Q. Court. What was your inducement for going to the General that day?

A. Upon hearing what I have before related amongst the men, that they considered their time of service as nearly out, and that some of them talked of going home, and to remove all uneasiness about it.

Q. Court. What Reasons have you to suppose the men would have staid, had General St. Clair given them an invitation?

A. The conversation I had with them induced me to think so.

General St. Clair's question. Were you at Castle-Town the day after the evacuation?

A. I was.

General St. Clair's question. Did not both your's and Colonel May's regiment determine to leave the army that day?

A. Not that I know of.

General St. Clair's question. Were you present when I had the two militia regiments drawn up, and spoke to them on that subject?

A. No; but I knew that you were speaking to one of the regiments. I was at a distance, and saw a parade of men, and you amongst them. The regiments

were intermixed, and some of my men likely were there.

Q. Did you know at the time what General St. Clair said to them?

A. I was unwell at a distance at the time, and did not know, but I understood afterwards, but don't know from whom, that he was saying something to them about keeping with the army.

Q. Court. When did the regiments leave the army?

A. I believe it was the fourth day at Manchester.

Q. Court. Did the regiments go off by order?

A. We were marching rather in disorder, when General St. Clair asked me whether I commanded that regiment? I told him I did, part of them; and he said, By God, I wish you would embody them, and march them home.

General St. Clair's question. Did I not, in the course of the march, frequently complain of the disorder of the two regiments, and reprove them for it?

A. Not in my hearing.

General St. Clair's question. Were they not disorderly on the march?

A. They did not keep rank and file.

General St. Clair's question. Do you remember of Colonel May's having reported to me that the men were willing to stay, but the officers were not?

A. I do not.

General St. Clair's question. Did your regiment keep their station that was assigned them in the line of march?

A. I know of no station that was assigned them but one day: Whether they kept it that day or not I don't remember.

General St. Clair's question. Did not your regiment break the line of march, and were you not halted by General Poor just after leaving the picketted fort, who said he would turn out a party of men, and order them to fire upon them?

A. I do not remember it.

Q. Was the regiment Colonel May belonged to in the same situation with respect to the opinion of the men, that their time of service was nearly expired, as your's was?

A. Much the same.

Q. When Colonel May went with you to General St. Clair, did he inform him that his men viewed their time of service nearly expired, and were determined to go as soon as it was expired?

A. We related what I have before mentioned.

The Court adjourn till to-morrow, nine o'clock.

AUGUST 29th.

The Court met according to adjournment.

Major General St. Clair produces part of a resolution of Congress, dated April 29th, 1777, which, being read, is as follows:

IN CONGRESS, *April* 29, 1777.

Resolved, THAT General Washington be directed to write to the eastern States, from whence the troops to be employed at Ticonderoga are expected, and to request them, in the name of Congress, to adopt and pursue every means, particularly those recommended by Congress in their resolutions of the 14th of this month, for compleating and forwarding the regiments which he has already ordered for that service, it being the opinion of Congress that a delay in this matter will be attended with the loss of that important pass.

Major General St. Clair desires Major General Gates, and several other gentlemen, may be sworn.

Major General Gates being sworn, says, Some time in April, in the year 1777, I made a requisition from Congress for the defence of the Northern Department, and estimated the troops necessary for that service as follows: Two Major Generals; six Brigadiers; one battalion of artillery, 600; twenty-five bat-

talions of infantry, 12,500; two companies of rangers, 100; staff, batteau-men, &c. 400; total, 13,600. At that time I did not expect General Burgoyne would have landed between 10 and 11,000 men. If I had, I should have required more men for the defence of that department.

General St. Clair's question. During the time I had the honour of serving under you, did you ever discover in me cowardice, treachery, or incapacity as a general officer?

A. From my long acquaintance with you as an officer, and particularly your usefulness to me as a Brigadier General in the campaign of 1776, it excites my astonishment that there should be such charges as cowardice, treachery, or incapacity, exhibited against you. From my knowledge of you, both as an officer and a gentleman, I have the highest opinion of your courage, honour, capacity and fidelity.

Q. What proportion of these troops ought to be at Ticonderoga and Mount Independence?

A. At Fort Schuyler, 500. The intermediate posts between Albany and Fort Schuyler inclusive, 500. The posts between Albany and Fort George inclusive, 600. At Fort Ann and Skeensborough, 300. The remainder at Ticonderoga and its dependencies. Besides these, I expected aid from the Militia of the country, having unlimited powers from Congress for that purpose.

Q. Court. What number of men would you have thought necessary, had you been fully possessed of the force of General Burgoyne?

A. Three to two.

Dr. Brown being sworn, General St. Clair's question. Were the sick removed from the hospital at the time of the evacuation?

A. All except four, whom it was unsafe to remove, as there was a chance of their recovery by remaining, and if they were removed, it was my opinion they would not have survived to have reached Skeensborough.

General St. Clair's question. Was any part of the medicines and hospital stores removed?

A. A day or two days before the communication was cut off with Fort George, all were removed, except what was wanted for an immediate supply, which were all saved.

General St. Clair's question. Was any part of what was left at Ticonderoga sent off?

A. There was; but I cannot say what proportion was saved. There was an officer and fifty men given us, and boats sufficient, and had they done their duty, it is my opinion we could have saved all the medicines and stores.

Q. Court. How long before the evacuation took place were the sick sent off?

A. There were a number of sick sent off some days before the evacuation took place; about the time the enemy appeared at Three Mile Point: The rest, except the four, were removed at the time of the evacuation.

Q. Court. Do you know whether there was a magazine of flour appropriated for the use of the hospital, separate from the general magazine?

A. I believe there was none.

Q. Did any provision arrive for the hospital, particularly, some days before the evacuation?

A. There were some sheep, beeves and milch cows. I do not recollect the number.

Q. In what situation was the army at the time of the evacuation, with respect to health?

A. There were very few in the hospital, not above 100; a great proportion of them wounded. There were a number in the regiments not fit for duty, on account of the measles, and the consequences of that disorder, which had prevailed much; but not proper objects for the general hospital.

Dr. Townshend being sworn, General St. Clair's question. Were the sick removed from the hospital at the time of the evacuation?

A. All that could be removed with any degree of safety to themselves.

General St. Clair's question. Was any part of the medicines and hospital stores removed?

A. A day or two before, to the best of my remembrance, the communication with Fort George was closed, there was a large proportion carried over to the store there, and only what was judged sufficient was left for those that remained on the ground.

General St. Clair's question. Was any part of what was left at Ticonderoga sent off?

A. Yes. Early in the evening, about dark, preceding the evacuation, we had a number of men sent to carry the stores down to the landing on the south side of Mount Independence. They worked very industriously the first of the evening, and packed nearly the whole, and the chief of them was carried to the landing, myself assisting; but the men, when they found the place was to be evacuated, deserted us. We got the greater part into the boats, and went off to Skeensborough in the morning.

Q. Court. How long before the evacuation took place were the sick sent off?

A. About the time the medicines were sent off to Fort George. The sick, that were not likely to recover in a few days, that could be sent off without injuring them by transportation, were sent to the hospital at Fort George.

Q. Court. Do you know whether there was a magazine of flour appropriated for the use of the hospital, separate from the general magazine?

A. There was not.

Q. In what situation was the army at the time of the evacuation, with respect to health?

A. The army was healthy, except with respect to the measles, which had prevailed very generally through the camp. They had recovered of the measles at the time of the evacuation, but they had left many of them languid with coughs.

Q. What situation was the army in a few days previous to the evacuation, with respect to health?

A. Much in the same situation as they were at the time of the evacuation, except a number more had the measles then than had at the time of the evacuation. I examined a number of regiments a little before the evacuation particularly, and there were in general between thirty and forty unfit for duty, but not fit objects for the general hospital.

Question to Dr. Brown. What situation was the army in a few days previous to the evacuation, with respect to health?

A. I believe they were not quite so healthy as at the time of the evacuation, and not so many fit for duty, as they were recovering daily from the measles and its effects. I examined the regiments myself a few days before the evacuation, and the prescriptions of the surgeons, and found but very few but had from twenty to thirty unfit for duty. Some had more.

General St. Clair's question to Dr. Brown. Were not the hospital surgeons frequently required to inspect into the state of the sick in each regiment, and was it not done with a view that I might not be imposed on by the regimental returns?

A. They were desired to do it frequently, and I have some idea of some conversation passing between Dr. Potts and myself about the intention of doing it, but I do not recollect the particulars of it.

General St. Clair's question to Dr. Townshend. The same as the last to Dr. Brown.

A. We were directed to do it frequently, and there was scarcely a day passed but some of the regiments were examined by some of the surgeons of the general hospital.

Colonel Hay, who acted as Deputy Quarter-Master General for the army at Ticonderoga and Mount Independence, being sworn, says: On Saturday, about three o'clock in the afternoon, the day preceding the

evacuation, I was sent for by General St. Clair, who informed me that a Council of General Officers had been held, and they had determined to evacuate the garrison next morning. I then took the liberty of asking the General if he had received orders from General Schuyler? He told me he had not. To which I took the liberty of saying I was extremely sorry for it. The General said he knew very well what I meant, and he had seriously considered the consequences of the step he was taking. If he remained there, he would save his character and lose the army; if he went off, he would save the army and lose his character; the last of which he was determined to sacrifice to the cause in which he was engaged. The General then desired me to prepare every thing for the removal of as many of the stores as possible. I then told the General, that as the wind blowed hard from the north-east, and the batteaus were lying at the south end of Mount Independence, it would be impossible to get them round to remove the greatest part of the stores. The General said it must at all events be attempted; for if the enemy knew of our design to evacuate the place, they would certainly cut off our retreat; but, on further consideration, said he would take the opinion of the General Officers, and let me know the result. In the mean time, that I was to prepare every thing possible for carrying off the stores, which I did as far as the wind, which rose much higher, would permit. I saw the General afterwards at sunset, who told me that Generals Poor and Patterson were of opinion the evacuation ought not to be retarded. What few boats were near Ticonderoga side were then given to the artillery men, and the most valuable stores on that side carried down to the wharff on that side. About nine the General sent for me again, and having asked what I had done, desired me to go as soon as possible to Mount Independence, order as many boats as could be brought from the south side of the Mount to bring off the provisions

that were lying near the Crane, leaving a proper proportion for the medicines, ammunition, and other most valuable stores, which were to be carried down to the south side. About, I think, one o'clock, I saw the General again on Mount Independence, who begged that we would make all the dispatch possible, and carry off all that we could in boats by day light. I then went down to where the provision laid, and got a very considerable number of boats loaded, which at break of day were taken round to the south end of the Mount by the General's order. When I got there I found the soldiers in the utmost confusion, and could not by threats or promises prevail on them to unload from the waggon, and embark on board the boats the most valuable part of the General's baggage. Nearly about sun-rise the General himself came up, and begged, if possible, I would save his papers, and pay no attention to the rest of his baggage; spoke to Colonel Long, who, I understood afterwards had received orders from the General, was to command by water, and went off himself after the army that had marched some short time before. Some days before the evacuation, being at Head Quarters after dinner, there were three field officers there (I think Colonels, but am not certain) who had lately arrived with a strong reinforcement of militia. Being asked by the General what time they could possibly stay? they replied, it would be impossible to detain them but a very few days, as they had not a second shirt to their backs, having first turned out with no other view than driving a party of the enemy from Otter-Creek. I went off by water.

General St. Clair produces a return made to him by Colonel Hay, which Colonel Hay acknowledges was made by him to General St. Clair, and which Colonel Hay thinks must have been made by him about the 21st of June, 1777; which, being read, is as follows:

A RETURN of a number of men under the command of Lieut. Colonel Udrey Hay, A. D. Q. M. G. *the regiments they belong to, and employments they are engaged in.*

Regiments they belong to.	*Employments.*	*Number of Men.*	
Colonel Long's,	Batteaumen,	2	
	Millmen,	5	
	Teamsters,	6	
		—	13
Colonel Hale's,	Batteauman,	1	
	At Skeensborough,	7	
		—	8
Colonel Francis's,	Batteauman,	1	
	Constant Fatiguemen,	17	
	Millmen,	5	
	Tinman,	1	
	At the Landing,	2	
		—	26
Colonel Bradford's,	Batteauman,	1	
	Constant Fatiguemen,	7	
	Gardeners,	2	
		—	10
Colonel Jackson's,	Batteauman,	1	
	Gardeners,	3	
		—	4
Colonel Cilley's,	Batteauman,	1	
	At Skeensborough,	2	
	Millmen,	6	
		—	9
Colonel Warner's,	Batteauman,		1
Colonel Scammel's,	Batteauman,		1
Colonel Marshall's,	Batteauman,	1	
	Constant Fatiguemen,	3	
	At Skeensborough,	1	
	Gardeners,	7	
		—	12
Colonel Brewer's,	Millmen,	2	
	Constant Fatiguemen,	13	
	Teamsters,	8	
	Gardeners,	3	
		—	26
Colonel Wells's,	Millmen,		4
Unknown,	At Skeensborough,		20
	TOTAL		134

UDREY HAY, D. Q. M. G.

General St. Clair's question. Do you know whether the men, returned by you as constant fatigue-men, were not included in the daily details for fatigue?

A. I am certain they were not included in the daily details for fatigue, being appropriated entirely to my department, and under my direction.

Q. Do you know whether the greater part of the provision and stores were got off from the garrison?

A. The greater part of the provision, I am certain, was not. I cannot answer with respect to the stores, as when we arrived at Skeensborough I had no time to examine them.

Q. Do you know the number of the body of the militia that arrived some days before the evacuation?

A. I do not know the number.

General St. Clair's question. Do you know of more than one body of militia arriving?

A. Not that I remember.

Q. Court. Was there a sufficient number of boats at the post to carry off all the provision?

A. There was not a sufficient number to have carried off the provision and the other stores.

Q. Do you know how many ox-teams were employed at Ticonderoga and Mount Independence at the time of the evacuation?

A. I cannot tell, having lost all my returns; but the number was not large, as in that wilderness there was not grass to maintain them.

General St. Clair's question. In what condition were the ox-teams that were employed at these posts?

A. The oxen were in poor working order, but might probably have brought the provision from the landing, had they no other garrison duty to do.

Q. Court. Do you know of any parties having been sent out by General St. Clair to discover the enemy's numbers, or to annoy them in their progress against the garrison?

A. To discover their numbers, I know of parties having been frequently sent out, and the General complained they were in such dread of the savages, he could not get proper intelligence from them. I know

of none sent out to annoy the enemy in their progress, but the regular pickets that were sent out.

Q. How large were these parties that were sent out to discover the enemy's numbers?

A. I cannot answer with any exactness.

Q. Court. Do you know whether the troops were courageous, and had a desire to improve every advantage against the enemy?

A. Their own words, and the facts which arose when they were sent out, were so very different, that it was difficult to judge, as they were generally beat back again.

The Court adjourn till to-morrow, nine o'clock.

The Court adjourn, by his Excellency's desire, until Thursday next, at nine o'clock.

The Court adjourn, by his Excellency's desire, until Monday, nine o'clock, to meet in camp.

SEPTEMBER 7th.

The Court met in Camp according to adjournment.

Colonel Koseiuszko being sworn, General St. Clair's question. Do you recollect what the strength of the fatigue parties was, that were employed on Mount Independence on or about the 23d day of June, 1777?

A. About five or six hundred men were employed on the batteries at Mount Independence as fatigue men, after General Schuyler had been at Ticonderoga, and had given directions to put new works on Mount Independence. There was also a party employed in front of the works, in a thick wood, cutting abbatis; I do not recollect the number. I remember that General Fermoy's brigade was employed in the wood cutting abbatis. General Fermoy himself was there two or three days. Besides these, I always sent a fatigue party to cut the abbatis.

General St. Clair's question. Do you know whether

there was a fatigue party likewise employed at the time on the Ticonderoga side?

A. I know there was a fatigue party employed on the breast-work.

General St. Clair's question. Did you not, by my orders, make some additions to the works on the Ticonderoga side?

A. Yes; between the west end of the French lines and the Lake. It was not quite finished at the time of the evacuation.

General St. Clair's question. Supposing Ticonderoga to have been abandoned, and the enemy to have been in possession of it, would it have been possible to have maintained the works on the point of Mount Independence, that were made for the command of the Lake and the defence of the bridge?

A. No; as the ground overlooked them about fifty feet.

General St. Clair's question. Do you recollect where the place from which we got our water was, on Mount Independence side, and the situation of it?

A. On the west side of Mount Independence, on the low ground, near the Lake.

General St. Clair's question. Could we easily get at the water?

A. No; It was very steep, and I think about one half a mile distant from the fort.

General St. Clair's question. Supposing the enemy had passed some of their vessels into South Bay, would it not have been wholly in their power to have cut us off from the water?

A. The spring would have been exposed to the fire of the enemy.

General St. Clair's question. Do you recollect the distance from the Lake to East-Creek, beyond the south end of Mount Independence?

A. About one half a mile or three quarters.

General St. Clair's Question. Would it not have been in the enemy's power to have annoyed, from the

vessels from South-Bay, any troops that might have been marching across the Isthmus to the relief of Mount Independence?

A. It would have been in the enemy's power to have done it on account of the passage being narrow, a thick wood, and the possession of the Lake.

General St. Clair's question. Do you recollect whether any works were begun to improve the redoubt on the high ground, on the point of Mount Independence?

A. Yes; by your order I marked out the lines, and prepared the fascines; which was after General Schuyler left Ticonderoga.

General St. Clair's question. In what condition was the fort upon Mount Independence?

A. It was a picketted fort, only for small arms. Picketted all round, some good and some bad.

General St. Clair's question. How many men could the fort contain with convenience for the defence of it?

A. About 1000 men.

General St. Clair's question. What batteries had the enemy erected against Ticonderoga at the time, or before the evacuation took place?

A. One battery was erected against the Jersey redoubt on the opposite side of the Lake, about half a mile distant, and on higher ground. They had made some works where they had an encampment against the French lines, about half a mile or three quarters distant. The enemy had also taken possession of Mount Hope, a retrenched camp, which had been occupied by us the campaign before, by which the communication with Lake George was cut off. They had taken possession of the mill, burnt the block-house, and passed on the other side of the creek, where they took possession of a hill which commanded all Ticonderoga and Mount Independence, and had begun a firing on the sloop that was stationed for the defence of the passage from Lake George. They had also

begun some works on a point on the east side of the Lake, opposite to the bridge.

General St. Clair's question. Do you recollect Colonel May's having told me, after I had spoke to the militia at Castle-Town, that the men would stay, but the officers would not?

A. I do not recollect Colonel May's having told you of it, but I met some of the militia on the retreat, and having expressed my surprise at their not staying to fight for their country, they answered, they were willing to stay, but their officers would not.

Q. Court. Could the enemy's vessels lie in South-Bay, in a situation to command the spring, and not be exposed to our batteries on Mount Independence?

A. There was high ground, and batteries could have been placed there to prevent them.

Q. Court. Could the enemy's ships lie in South-Bay, in a situation most to annoy a reinforcement going to Mount Independence, without being exposed to the fire of our batteries from Mount Independence?

A. They could.

Q. Court. Was there any other spring on Mount Independence, out of the enemy's fire, that the garrison could have been supplied with water from?

A. No other lasting one.

Q. Court. What kind of ground was it on the height on Mount Independence. Whether stony, difficult of raising a parapet on, or of sinking a ditch?

A. Very stony and rocky ground, and would require a great deal of labour to put on the works. A ditch could not be sunk to any proper depth without blowing the rocks.

Brigadier General Wilkinson being sworn, General St. Clair's Question. Do you recollect what means were taken by me to gain intelligence of the approach of the enemy, and their numbers?

A. By scouts and detachments, both by land and by water.

General St. Clair's Question. Were not there scouts and detachments sent out frequently?

A. There was an established daily scout, as well as I recollect, besides many that were sent out occasionally.

General St. Clair's Question. Do you recollect the distance from Ticonderoga to Gilliland's Creek?

A. I cannot ascertain the distance.

General St. Clair's Question. Do you recollect the nature of the ground between Ticonderoga and Gilliland's Creek.

A. I can judge of it only from observation as I passed up and down the Lake. On the west side it is a mountainous craggy country, the mountains in many places jutting in full upon the Lake. On the east side a flat low country covered with wood.

General St. Clair's Question. Could large detachments of troops, had our garrison been in a situation to have afforded them, march through that country on the west side of the Lake?

A. Not without great difficulty and probable loss, on either side of the Lake.

General St. Clair's Question. Was there not, notwithstanding the difficulty of the country, frequently small parties sent out towards Gilliland's Creek, to discover the approach and strength of the enemy, and were there not parties sent out on the east side of the Lake with the same view?

A. There were.

General St. Clair's Question. If large detachments had been sent out at such a distance that they could not have been supported with the whole force of the garrison, could they have retarded the progress of the enemy, or must they not have fallen into their hands?

A. They might have given a momentary check, but must inevitably have been cut off.

General St. Clair's Question. Do you recollect my sending out serjeant Heath, with a party, previous

to any account we had of the embarkation of the enemy on the Lake, with orders to proceed to Point-au-Fer, or wherever he should find the enemy, endeavour to make a prisoner, and bring me an account of them?

A. I do not recollect the officer's name, but I recollect a scout was sent out for that purpose.

General St. Clair's Question. Do you recollect the account he brought?

A. I recollect, that he informed that he discovered the enemy somewhere about Gilliland's Creek, encamped, and that he conceived them to be in force.

General St. Clair's Question. Do you recollect in what part of the country he was when he made the discovery?

A. I think he was on the east shore, opposite to Gilliland's Creek. I do not recollect the distance.

General St. Clair's question. Did you hear of any other debarkation of the enemy than at Gilliland's Creek, from the time of their embarkation at Point-au-Fer to their landing at or near the Three Mile Point?

A. We were informed of their approach to Crown Point, and of their being encamped there. I don't recollect any other particular debarkation until their arrival at or near Three Mile Point.

General St. Clair's question. Had we not information of numerous parties of the savages being in the country, on the west side of the Lake?

A. We had, and found them so very numerous that our parties could scarce ever get in view of the enemy, though many attempts were made to discover their situation.

General St. Clair's question. Were there actions several times between our parties and the savages?

A. There were, and I remember our parties on those occasions were routed.

General St. Clair's question. Do you recollect the strength of the fatigue parties that were detailed on or after the 20th of June?

A. I cannot particularly ascertain the number. I remember that the fatigue parties and guards generally amounted to about one fourth of the number of effectives fit for duty in the garrison, and some times one third.

General St. Clair's question. Besides the number of men for fatigue that was detailed, was there not a constant fatigue party with the Quarter Master General, and a regiment of militia also employed in constant fatigue?

A. The Quarter-Master General had a constant fatigue party, besides the number that was furnished him by the details. There were besides, 100 men employed on daily duty from two regiments of militia.

General St. Clair's question. Do you recollect my having ordered the fatigue on Mount Independence to be done by a brigade at a time, under the command of a Brigadier; and was not this number also exclusive of the detail for fatigue?

A. I recollect there was, and they were exclusive of the detail for fatigue, except the proportion from the brigade ordered on duty.

General St. Clair's question. Do you recollect the diminishing the camp guards, and was it not done on account of the severity of duty, by having so many men on fatigue?

A. I recollect it, and it was done upon that principle.

General St. Clair's question. As you lived with me, you must be acquainted with the baggage I had. I wish you would mention it.

A. You had a portmanteau, and a chest which contained your baggage; also some kitchen furniture.

General St. Clair's question. Was any part of my baggage sent off from Ticonderoga previous to the evacuation?

A. No.

General St. Clair's question. What age was my son, who left Ticonderoga?

A. He was a mere child; about ten or twelve years of age.

General St. Clair's question. Was any part of my baggage sent off with him when he was sent to Fort George?

A. No part of it.

General St. Clair's question. Could any of my baggage have been removed without your being acquainted with it?

A. I don't think it possibly could.

Q. Court. Was any part of the furniture belonging to Head-Quarters removed to any other place previous to the evacuation?

A. None.

General St. Clair's question. Do you recollect what orders were given to the troops on the evacuation being determined upon?

A. I do not, as I was then employed in fixing an occasional picket, but I believe the orders were given to the Brigadiers.

General St. Clair's question. Was there a strong picket advanced of the French lines, and the other pickets reinforced, so as to form a chain of centinels the night of the evacuation?

A. I don't know it of my own knowledge, as I was ordered to Mount Independence to give orders about loading the batteaus; but, from every information I received, I am induced to think there was.

General St. Clair's question. Was not the order for the march of the troops, the striking their tents, and loading their baggage, delivered by you to some of the regiments on Mount Independence?

A. The order for striking their tents and loading their baggage was delivered by me, and dispersed to all the regiments about twelve o'clock at night.

General St. Clair's question. How was the retreat conducted?

A. The troops pushed out of Mount Independence without order or regularity, in a great deal of confu-

sion. I remember that, after you had got them stretched, you rode from the rear to the front, in order to halt and throw them into some form, but your orders were directly disobeyed, and the militia would not halt, but pushed on, and drew after them many of the continental troops. When we arrived at Hubbarton, the army halted, and was refreshed as well as our circumstances would admit. After waiting a length of time, two or three hours, for the rear guard and stragglers, you moved on with the main body, leaving the command with Colonel Warner, with orders to follow as soon as the whole came up.

General St. Clair's question. Were not many of the continental regiments got into good order soon after they left Mount Independence, and did not the rear guard come off in very good order?

A. There were several regiments got into tolerable good order by your halting them, and other attempts, and the rear guard under Colonel Francis came off in very good order.

Q. How large was the daily scout that was sent out to gain intelligence of the enemy's approach and strength?

A. From fifteen to twenty-five. It was a subaltern's light command.

Q. Do you know the strength of those that were sent out occasionally for that purpose?

A. Their numbers varied. I remember one which amounted to 100.

Q. Do you recollect the time this scout, consisting of 100, was sent out?

A. I do not recollect the day, but the occasion was the enemy had made a couple of prisoners, and fell in with a returning scout of ours which they routed; in consequence of which this party was detached to come up with them if possible.

Q. Do you recollect where the enemy lay at the time?

A. I cannot recollect particularly, but believe at Gilliland's Creek.

Q. After the enemy had landed at Three Mile Point, were any parties sent out to annoy them in their approach towards the garrison?

A. There were.

Q. How large were these parties?

A. There were two small parties sent out. I believe they might have been about 60 men. They were routed and pursued by the Indians.

Q. Were any orders given for the destruction of the barracks at the time of the evacuation of the garrisons of Mount Independence and Ticonderoga, or before?

A. Not to my knowledge. The reason General St. Clair assigned for not setting them on fire was, it would have betrayed our movement to the enemy.

Q. Court. Do you suppose it would have had that operation?

A. It most certainly would.

Q. Was the number of men returned on command in your return of the 28th of June, on command in the garrison, or where?

A. There were many of them on command in the garrison. I do not recollect the number. Some were on command at Fort Schuyler; some at Albany, and on the communication to Ticonderoga; at Skeensborough, Fort-Ann, Lake-George landing, and at the block-house at the saw-mill.

General St. Clair's question. During my command at Ticonderoga, or at the time of the evacuation, did you perceive any instances of cowardice in me?

A. No; but I have upon every occasion observed a direct contrary conduct.

General St. Clair's question. Were you with me at Princeton and Trenton, and did you observe any instance of cowardice in me there?

A. I was. I observed no instance of cowardice in you, but, on the contrary, upon every occasion of danger, you manifested the utmost coolness and intrepidity.

General St. Clair's question. At the affair of Princeton do you recollect your riding up to me, and informing me that our troops had given way in the centre; and do you recollect what passed between me and you upon that occasion?

A. I recollect your begging me to take no notice of it, lest it should communicate a pannic to the troops we were with.

General St. Clair's question. At the time the picket was attacked at Ticonderoga, which occasioned some firing from the lines, and at every other time when there was firing, did I not transport myself to the place with the utmost expedition?

A. You did; and your positive injunctions to the officers and exhortations to the soldiery were, to reserve their fire until the enemy came within a very certain shot.

General St. Clair's question. Were there any other pickets placed by you besides those mentioned in the orderly book?

A. There was an additional picket of 50 men posted on the left of the French lines, without them, every night, which came off in the morning; and a similar picket, subject to the same orders, was posted on the point to the right of the Jersey redoubt.

Q. Court. During the time you were with General St. Clair at Ticonderoga, did you observe any conduct of his that induced you to think him treacherous to the United States?

A. No; but he did, upon every occasion, manifest the most enthusiastic zeal for the good of the cause of the United States.

Q. Court. Do you know the particular period when General St. Clair had compleat information of the number and designs of the enemy?

A. The first information of their number and design which he received, that could be relied on was, I think, two days before the evacuation. This intelligence was by stratagem obtained from a prisoner.

The Court adjourn till ten o'clock to-morrow.

SEPTEMBER *8th.*

The Court met according to adjournment.

The Judge Advocate produces copies of letters from Major General St. Clair to Major General Schuyler, dated July 1st, July 2d, and July 3d, 1777; also a letter from Major General St. Clair to the Hon. John Hancock, dated July 14, 1777; which, being read, are as follow:

Dear General, *Ticonderoga, July* 1, 1777.

NOT finding a convenient opportunity to send off my letter, I have the pleasure to acknowledge the receipt of your letter of the 28th. The success of General Washington over General Howe is an event of such importance, as must destroy every prospect of the enemy's carrying their plans into execution, should they succeed here. I have ordered a feu-de-joye upon the occasion, and will find some way to communicate the intelligence to the enemy. We have now two ships, eighteen gun boats, and three sloops, lying off the Three Mile Point, and they are forming a camp upon the point, and retrenching it. This does not look like their being strong. Other matters I hope to manage to-morrow morning, but cannot be particular for fear of accidents.

I am, dear General,
Your most obedient Servant,
A. ST. CLAIR.

This moment I have discovered that they are throwing a boom across the river——bravo!

Dear General, *Ticonderoga, July* 2, 1777.

YESTERDAY at noon, in the very instant of the feu-de-joye, which consisted of thirteen pieces of cannon (the musketry might have discovered to the enemy our numbers) forty-one batteaus appeared off the Three Mile Point, crossed the Lake, and landed troops on the east side, in the Bay formed behind the Long

Point, opposite to the Three Mile Point. I observed them very attentively, and am certain they did not contain on an average above twenty men. It is not improbable, however, that part of the troops transported in them from Canada may have landed on the western side, so low down as to be out of our sight, and I am rather inclined to think this the case, from their camp extending a considerable distance down the Lake, and its being much too large for the number of men we saw debark at the Point.

I am in great pain for the batteaus and stores at the Landing. We cannot possibly get them over (the enemy having possessed themselves of Mount Hope) without risking such large detachments as might oblige us to come to action in the open field, which would not be altogether prudent. I had ordered a party to bring them off this morning, but the escape of some of the cattle, and the stupidity of the drivers, retarded us so much that day appeared, and it was then too late to attempt it. The design was therefore laid aside, and a party sent to reinforce the party at the Landing, with orders to take back the stores to Fort-George, and all the batteaus, destroying the block-house, and such batteaus as they might not be able to carry off. At the same time I sent orders to the block-house at the mills, which has been attacked several times, and was surrounded yesterday all day, for the officer to set fire to it and the mills, and to retire to camp, which he has this moment effected. The party gone over with the boats I have desired to return by Skeensborough. It will be of the utmost importance to secure that communication, which I have no doubt of your being able to do; and when the Grant people come in, I hope to keep open that by Castle-Town. A party of them, with cattle, should have been here yesterday. I hope no accident has happened them.

The inhabitants who live between this and the bridge, I found it necessary to bring within the lines, and have now sent them to Skeensborough, with directions to

Captain Gray to forward them to Albany by the first opportunity. I do not know that they are our enemies, but they are certainly not our friends; and when the enemy first presented themselves they were through their houses, and they gave us no intelligence of them.

I am still of opinion that the enemy have no great force here, but whether the whole of their army may as yet be come up I am not certain, but last night they fired their evening gun from three different places, farther down the Lake than their post at Three Mile Point. A little time will clear up this matter.

I am not sufficiently acquainted with this country to form any judgment how a body of men can be sent out to our relief, in case the enemy possess themselves of the shores of the Lake above Mount Independence, which they certainly will by means of their savages; but if they can be brought by land in their rear, a small party would oblige them to quit the Lake, and consequently leave the communication open.

I am, with great respect, dear General,
Your most obedient Servant,
A. ST. CLAIR.

The Hon. Major General SCHUYLER.

Dear General, *Ticonderoga, July* 3, 1777.

OUR picket was attacked yesterday two or three times, in which we lost five men killed, and two or three wounded. The enemy's loss we are not apprized of, but we have one prisoner of the 47th regiment, and two deserters from the corps of Jagers. The prisoner was very sulky, and would give no information whatever; but by disguising an officer, a countryman of his, and confining him in the same room with him, with the help of a little rum, we got out all he knew, which have here inclosed, as also the examination of the deserters. Two men came in from the Grants last night, and returned. I have wrote very pressingly for the people to come on, and for the present leave the cattle to be brought up by those who

succeed them. I think it is probable Warner will fall in with the foreigners, who are all on the east side of the Lake. The British troops upon the west. Excuse this scrawl. I am so much in want of sleep, that I am nodding as I write.

I am, dear General,
Your very humble Servant,
A. St. CLAIR.

Hon. General SCHUYLER.

SIR, *Fort-Edward, July* 14, 1777.

CONGRESS may probably think it extraordinary that so much time should have elapsed before they heard from me, after a step of such consequence as the evacuation of the posts that had been entrusted to my care, but it was not in my power to write whilst on the march to this place. I am sorry to find that my letter to General Schuyler, the night the evacuation took place, has not come to his hands; as, for want of that, tho' he has doubtless informed Congress of the matter, he could not give them the reasons that induced it. They were these:

Seeing that the posts of Ticonderoga and Mount Independence were nearly invested, and having intelligence by my spies that they would be compleatly so in twenty-four hours, when we should be cut off from all possibility of succour; that the batteries of the enemy were ready to open, and the whole of our encampment, on the Ticonderoga side, exposed to their fire; considering, at the same time, the weakness of the garrison, that the effective numbers were not sufficient to man one half of the works, and that, consequently, the whole must be upon constant duty, which they could not possibly long sustain, and that of course the places, with the garrison, must inevitably in a very few days fall into the enemy's hands; I saw no alternative but endeavouring to evacuate them and bring off the army. Whereupon I called the General Officers together, to take their sentiments. They were unani-

mously of opinion that the places should be evacuated without the least loss of time; and it was accordingly set about that night, the 5th instant, after embarking in boats as much of our cannon, provision and stores, as was possible.

With the boats, which were ordered to Skeensborough, I sent Colonel Long, an active, diligent, good officer, to take the command there, with his regiment and the invalids, until I should join him with the army, which was to march to that place by Castle-Town. The body of the army reached Castle-Town the next evening, thirty miles from Ticonderoga, and twelve from Skeensborough; but the rear guard, under the command of Colonel Warner, which, with the stragglers and infirm, amounted to near 1200, stopped short of that place six miles, and were next morning attacked by a strong detachment the enemy had sent to hang upon our rear and retard our march. Two regiments of militia, who had left us the evening before, and halted about two miles from Colonel Warner, were immediately ordered to his assistance; but, to my great surprize, they marched directly down to me. At the same time I received information that the enemy were in possession of Skeensborough, and had cut off all our boats and armed vessels. This obliged me to change my route, that I might not be put betwixt two fires, and at the same time be able to bring off Colonel Warner, to whom I sent orders, if he found the enemy too strong, to retreat to Rutland, where he would find me to cover him, that place lying nearly at an equal distance from both. Before my orders reached him his party was dispersed, after having for a considerable time sustained a very warm engagement, in which the enemy suffered so much, that they pursued but a very small distance. Our loss I cannot ascertain, but believe it does not exceed 40 killed and wounded. About 200 of the party have joined me at Rutland and since, but great numbers of them are still missing, and I suspect have got down into New-England by the way of No.

Four. After a very fatiguing march of seven days, in which the army suffered much from bad weather and want of provision, I joined General Schuyler the 12th instant.

It was my original plan to retreat to this place, that I might be betwixt General Burgoyne and the inhabitants, and that the militia might have something in this quarter to collect to. It is now effected, and the militia are coming in, so that I have the most sanguine hopes that the progress of the enemy will be checked, and I may yet have the satisfaction to experience, that, altho' I have lost a post, I have eventually saved a State.

Perhaps I may be censured, by those who are unacquainted with the situation I was in, for not sooner calling the militia to my assistance. I think I informed Congress that I could not do that for want of provision; and as soon as I got a supply I did call for them, and was joined by near 900 the day before the evacuation, but they came from home so ill provided, that they could not, nor did not, propose to stay with me but a few days. The two Massachusetts regiments of militia likewise, which composed part of the garrison, gave me notice that their time expired in two days, and they intended then to go home. In vain did I beg of their officers to exert every influence they had over them, and, from their subsequent behaviour, I am fully persuaded the officers are most to blame. They kept with me, however, for two days on the march, but their conduct was so licentious and disorderly, and their example beginning to affect the continental troops, I was constrained to send them off.

Inclosed is a copy of the Council of War, in which you will find the principles upon which the retreat was undertaken. As I found all the General Officers so fully of opinion that it should be done immediately, I forbore to mention to them many circumstances which might have influenced them, and which I should have laid before them, had they been of different sentiments.

For I was, and still am, so firmly convinced of the necessity, as well as the propriety of it, that I believe I should have ventured upon it, had they been every one against it.

I have the utmost confidence in the candour of Congress, and persuade myself, notwithstanding the loss they have sustained, when they have impartially considered that I was posted, with little more than 2000 men, in a place that required 10,000 to defend it——that these 2000 were ill equipped and worse armed, not above one bayonet in ten, an arm essential in the defence of lines——that with these 2000 I have made good a retreat from under the nose of an army at least four times their numbers, and have them now betwixt the enemy and the country, ready to act against them——that my conduct will appear at least not deserving censure.

I have the Honour to be, Sir,
Your most obedient Servant,
A. ST. CLAIR.

Hon. JOHN HANCOCK, *Esq.*

The enemy's force, from the best accounts, is 3500 British, 4000 Brunswick and Hesse-Hanau, 200 Indians, and 200 Canadians.

Lieutenant Colonel Varrick being sworn,

Q. Did you muster the troops at Ticonderoga and Mount Independence in the month of June, 1777?

A. Yes; except Colonel Long's regiment, which was mustered before I arrived there.

Q. In what condition was the continental troops with respect to arms?

A. Some of them very indifferent. The three New-Hampshire regiments, Colonel Scammel's, Colonel Cilley's and Colonel Hale's, had pretty good French arms, and chiefly bayonets. I believe a majority of the other regiments had not bayonets. The militia regiments had arms, but very indifferent, but no bayonets.

Q. Had the corps of artillery or artificers any arms?

A. None.

Q. Were the lines and redoubts at Ticonderoga furnished with spears?

A. They were furnished with some spears and sharp pointed poles, but whether there were sufficient or not for them I cannot tell.

Q. Did General St. Clair inform you on or about the 26th or 27th of June, 1777, of the quantity of provision he had in the garrison?

A. I think he mentioned to me he had about thirty-six days of the meat kind. Flour, I do not know what quantity he had.

General St. Clair's question. Were there not a great many boys amongst the troops?

A. There was a number of boys, old men and negroes. I dismissed at the muster 50, as positively unfit for any kind of service, and would have dismissed more, had you not desired me to be very tender, as you had so few troops in garrison.

General St. Clair's question. Did not my son pass the Lake from Ticonderoga with you?

A. Yes; he passed the Lake at my request. I urged the matter to you.

General St. Clair's question. Did any part of my baggage go over when he went with you?

A. None. Some of your son's clothes were left behind.

Major Hull being sworn,

General St. Clair's question. How was the retreat in General from Mount Independence conducted?

A. The general plan of the retreat, I think, was very well, though there was some part of the troops that behaved disorderly.

General St. Clair's question. During the time of my command at Ticonderoga, did you ever observe any kind of cowardice, treachery, or inattention to the progress of the enemy in me?

A. Not the least appearance of either.

General St. Clair's question. Do you recollect the circumstance of my ordering a strong picket out the night of the evacuation under Colonel Francis, and that it was directed to be of picked men?

A. Yes.

Q. Court. What was the general plan of the retreat?

A. General Poor's brigade was ordered in front, the militia next, General Patterson's brigade next, General Fermoy's brigade after him, and the rear guard, consisting about 450 men, under the command of Colonel Francis. Over the first part of the ground we marched in file, owing to the nature of the country; where the ground would admit of it we marched in platoons. General Poor's brigade, as far as I was capable of seeing, when they first marched off from Mount Independence, marched off in good order.

Q. Court. How were the invalids disposed of at the time of the evacuation?

A. Those who were not able to march were sent by water. The others marched with their respective regiments.

General St. Clair's question. What quantity of provision was ordered for the troops to take with them before they left the garrison?

A. I think eight days; principally pork and flour, and some hard bread.

Brigadier General Poor being sworn,

General St. Clair's question. Do you know what means were taken to discover the approach and strength of the enemy?

A. By continually sending scouts by land on both sides of the Lake, and by water.

General St. Clair's question. Did you ever hear of any landing the enemy made but at Gilliland's Creek, until they came to Crown-Point?

A. No.

General St. Clair's question. Do you recollect my sending out serjeant Heath, with a party, to make discoveries?

A. No; but I recollect your sending out Lieutenant Lifer, who returned with two prisoners. I remember your sending out a person with orders to proceed to Point-au-Fer, or wherever the enemy were, who brought intelligence that the enemy were on the west side of the Lake at Gilliland's Greek.

General St. Clair's question. Do you recollect the general strength of the parties that were sent out?

A. Sometimes a Subaltern's command, sometimes a Captain's command, Captain Whitcomb being out frequently; sometimes by twos and threes, merely as spies.

General St. Clair's question. Would the sending of larger parties have answered a better purpose than of sending the parties that were sent, and could larger parties have been sent without great danger of losing them?

A. For the sake of gaining intelligence of the approach of the enemy, or to ascertain their numbers, could have been much better attained by small parties than by large ones, as any considerable number of men marching in that woody country, where the ground is covered with moss, might easily be discovered, and of consequence would be exposed to have been cut off by the enemy.

General St. Clair's question. Do you recollect whether the working parties were increased on or after the 20th of June?

A. If I remember right, the detail was taken off, and we were ordered to work by brigades, to turn out in the brigade every officer and man who were off duty and able to work, to throw up lines on Mount Independence, and also to fell the trees on the sides and at the bottom of the hill. Near twenty acres of trees were felled.

General St. Clair's question. Was there any wood on Mount Independence, to have supplied the garrison in case of a siege, or was there a magazine of wood laid in?

A. There was no magazine of wood laid in. There was some scattering logs upon the top of the hill, and so much upon the sides, that I believe we should not have been put to any difficulty in getting wood, in case we had been besieged.

General St. Clair's question. How long do you suppose the wood that was on the Mount would have furnished firing for the garrison we had?

A. At that season of the year it might have lasted us a fortnight.

General St. Clair's question. Could we have spared men from the works that we were engaged in, to have laid in a further supply of wood, or had we a number of draught cattle sufficient to have brought it from any distance?

A. At that time we had not half men enough to man our works. I never understood we had many teams, but I do not recollect the number. What few teams we had were employed in transporting the stores from Lake George Landing to Lake Champlain.

General St. Clair's question. Do you recollect, after the enemy landed at Three Mile Point, and before they broke ground, my ordering the men to lie a night or two on their arms?

A. I do.

General St. Clair's question. Did you not understand the reason of that order was, that tho' I did not think the enemy were in force, yet I thought they might attempt to carry us by a coup-de-main?

A. I don't recollect it.

General St. Clair's question. Was our force in any degree adequate to the defence of the places?

A. No; I think that the places could not have been maintained unless with at least 10,000 good troops, and we ought to have had possession of two hills without the French lines, as also the one on the other side of the Lake, known by the name of Mount Defiance.

Major General St. Clair produces a paper, and asks General Poor whether the matter therein contained was the order of march and distribution of batteaus, that was agreed upon at the Council on the 5th of July?—The paper is as follows:

160 from General Poor's brigade, commanded by Lieut. Col. Read and Major Durborn——150 from General Patterson's, commanded by Col. Francis——6 Captains, 12 Subalterns, and non-commissioned in proportion——to advance as a picket in the front of the French lines.

ORDER OF MARCH.

General Poor to lead the column with his brigade; General Patterson to follow; Colonel Long; General Fermoy; Robison to march with his regiment on the left flank; and Colonel Bellows, with Williams's regiment, on the right.

Hospital, 6 batteaus; Artillery, 20 batteaus; Quarter-Master and Engineers, 10 batteaus; Clothier, 4 batteaus; Provision, 30 batteaus.

A. I very well remember the orders, and I think it to be the paper.

General St. Clair's question. Do you recollect a picket to be advanced, consisting of the number of men, and under the officers mentioned in the paper?

A. I well remember it. I was desired by you, when this picket was paraded, to post them with the other picket, which I think was 150 men, as near the enemy as I could without bringing on an action, and to give them particular orders in the morning, when I was to call them in, that they were to compose the rear guard, which I did.

General St. Clair's question. Did you not understand that the reason of ordering out that picket was, to prevent any surprise happening to us while the

men were employed in carrying the stores and baggage to the landing place?

A. Yes; and likewise to form a chain of centinels from water to water, to prevent any of our men deserting to them, and giving them any information.

General St. Clair's question. Do you recollect the burning of General Fermoy's house?

A. Yes; before I called in the pickets on Ticonderoga side I saw that house in flames, which laid the hill that his brigade was on open to the view of the enemy, as I could see every movement they were making, striking their tents, and loading and carrying off their baggage, which induced me to order in the pickets one half an hour sooner than I should otherwise have done, as the principal part of the troops on Ticonderoga side had crossed the bridge, in order to embark their baggage on board the boats, the wind being so high the boats could not be brought over.

General St. Clair's question. Were not orders given not to set fire to any of the buildings?

A. Yes: You gave me particular orders, as soon as I had posted the pickets, to communicate your orders with respect to the evacuation of the place to the commanding officers of regiments in my brigade, and desired, as soon as the baggage was packed up, that every light, both from fire and from candle, might be put out, previous to striking the tents and putting the baggage on board the boats. I understood the reason was, to prevent the enemy from making any discovery of our intentions; and had not the wind been so very high, which obstructed the moving of the boats, we should have been able to have left the place by two o'clock, as was determined on.

General St. Clair's question. Was not the confusion of marching off the troops from Mount Independence occasioned by that house of General Fermoy's having been set on fire?

A. I believe that was the principal occasion of it.

General St. Clair's question. How far did the troops

march before that confusion was, in a great measure, remedied?

A. I marched in front. I frequently fell back to the rear of my brigade, to examine into their situation, and before we had marched many miles I got them nearly all together; I can say nothing with respect to the others; and the first halt we made the brigades were all formed in order, and marched so during the whole retreat, excepting Colonel Leonard's and Colonel Wells's, two militia regiments, who behaved with the greatest disorder.

General St. Clair's question. Do you recollect of one or both of these regiments having broke the line of march?

A. The day after the evacuation, when we arrived at Otter Creek, we were alarmed by a report that the enemy were just in our rear. I, being in front, was ordered to cross the bridge, and draw the men up upon the most advantageous ground I could find. I posted the regiment that Lieut. Colonel Hale commanded at a ford; he left it, and went off. In the evening, on our march, about a mile and a half from that place, I came up where Colonel Hale was with his regiment. The regiment had four oxen killed and skinned. I asked him how he came there without leave? he said he came to get some provision, to prevent his men from starving. I ordered him to cut up his meat, to be ready to fall into the line of march, which he might be in a few minutes; if not, we should march but about a mile and a half, and make a halt. I moved on, and in about ten minutes found his regiment running by my brigade, and he nearly at the head of them. He, with about forty of his men, passed the brigade. I rode forward, and halted him till part of one regiment of my brigade had passed him; he came up again, and insisted on passing, as he would not be left in the rear. I turned out about forty men, and ordered them to fire upon them, unless they would remain on the ground till the line of march came

up, where they were to fall in, which halted them. Both regiments frequently broke the line of march.

General St. Clair's question. Do you recollect whether the troops, at the time of the evacuation, were ordered to take five days provision with them?

A. They were ordered to take several days provision with them, which was judged sufficient to have carried them to the North River, had we pursued the route we expected to take.

General St. Clair's question. During my command at Ticonderoga, did you discover any thing that had the appearance of cowardice in me, or induced you to think me treacherous, or inattentive to the progress of the enemy?

A. I was once with you when you were in danger, and sundry times when we have expected an immediate attack, and never discovered the least discomposure of mind, but you always appeared with the greatest bravery and steadiness, becoming the character of an officer. From your close application to your duty by day, before the enemy made their appearance at Ticonderoga, and your constant application both by day and night, after they came there, gave me every reason to imagine you left nothing undone that was in your power to contribute to the strength of the garrison; therefore I had not the least reason to induce me to think you either treacherous or neglectful of your duty. I remember your observing to me, if I evacuate the place, my character will be ruined; if I remain here, the army will be lost; but I am determined to evacuate it, altho' it will give such an alarm that has not happened in the country since the war commenced.

General St. Clair's question. At what time did this conversation happen. Was it previous to the resolution that was entered into by the Council of War, or posterior to it?

A. It was after it. You gave your reasons for it, and said that it was to throw this body of troops

between the country and Burgoyne, that the militia might have a body to collect to; which, if this body was cut off, they would have none, and of course Burgoyne would pursue his operations without any obstacle, or words to that effect.

General St. Clair's question. Were you with me at Trenton or Princeton, and what was my conduct at those places with respect to courage?

A. I was with you at both places. We were not brought to close action at either place, but you behaved with the greatest spirit, and with as much coolness as at any other time.

Q. Court. At what time did General St. Clair receive the first compleat intelligence of the strength and designs of the enemy?

A. I don't recollect any that was obtained before the prisoner was taken; he was the first person that gave us intelligence who commanded the enemy's army, of their strength and designs, and that not until the next day after he was taken.

Q. Court. Was there any other intelligence received, between the time of the prisoners being taken and the time of the evacuation?

A. There was a report in camp, that some of the inhabitants said they were clearing a road through the wood to get into our rear. The Jagers also mentioned that they were clearing a road.

Q. Court. Do you know whether it was a prevailing opinion, that nothing serious would be attempted against Ticonderoga that campaign, and whether it was not expected that the enemy's troops would have been sent round from Quebec to the southern army?

A. A little before General St. Clair arrived at Ticonderoga the enemy made a movement up the Lake, with a number of boats and one or two vessels, tarried a few days, and returned. I acquainted General Gates of it, and further acquainted him that I was informed they were making preparations at St. John's to proceed with their whole army. He wrote me, that

he had the strongest assurances from Congress that the King's troops were all ordered round to New-York, leaving only a sufficient number to garrison their forts, and desired me to be getting every thing in readiness, that if the enemy went out of one door, we must enter the other. He farther mentioned in his letter, that we might daily expect alarms, as they commanded the Lake, and might come up with their shipping, and that the intelligence he had by a spy that came from Canada corroborated the sentiment of Congress.

Q. Court. What orders had the commanding officer of the rear guard, and did he obey the orders he received?

A. He was ordered upon his coming in to sweep every thing off the ground upon Ticonderoga side, to bring every man and beast, which I understood he effected, and then to fall in the rear of General Fermoy's brigade, as a rear guard to the army.

Q. Court. What orders did the officer of the rear guard receive at Hubbarton?

A. The first halt that was proposed to be made was at Lacey's camp, which was the first cleared land we came to after we left Mount Independence. When I got within about a mile of the place, I met an inhabitant, who informed me there was a large number of the enemy and Indians at Hubbarton, which was two miles farther, which induced me to continue the march until I arrived at Burnam's, in Hubbarton, where it was said the enemy were. Upon our arrival we were told that about 500 of the enemy had been there, and had gone to Castle-Town. There I marked out the ground for each brigade, posted officers to fall in with his brigade and regiment as they came up. We had then made a march of about twenty miles, which had fatigued many of our feeble men; so that the officer commanding of the rear guard thought proper to halt at the place first proposed, Lacey's camp, two miles in our rear. General St. Clair sent several times to

order the rear guard up; the last messenger came and said they were on their way up. As we tarried there about three or four hours, General St. Clair said he would march to Castle-Town with his army, and would leave Colonel Hale's and Warner's regiments to cover his retreat, with orders for them to move on moderately. Some time in the evening I heard the General express a good deal of uneasiness and concern that Colonel Francis did not come up with the rear. Towards morning he sent one of his Aids up to order them down immediately; and, if I mistake not, sent a second time. They did not join the army, but remained until they were attacked by the enemy the next morning.

General St. Clair's question. Do you know whether the rear guard had orders to move on to Castle-Town that night?

A. I cannot say positively that they had, but I understood they had.

General St. Clair's question. Do you recollect my having sent orders to Colonel Bellows and Colonel Halcott's militia regiments, who were halted two miles from Hubbarton, to march up and support them upon being attacked?

A. Yes.

General St. Clair's question. Was that order obeyed?

A. It was not. The regiments came directly to us at Castle-Town.

Major General St. Clair produces a map of Ticonderoga, Mount Independence and the adjacent country, with references, which Colonel Koseiuszko, on his oath says is a true one, to the best of his knowledge and judgment, except as to the distances, it not having been made from actual survey, but taken from view.

The Court adjourn till to-morrow, ten o'clock.

SEPTEMBER 9th.

ALL the members not attending, the members present, being a majority of the Court, adjourn till to-morrow, at ten o'clock.

SEPTEMBER 10th. The same as yesterday.

SEPTEMBER 11th. The same as yesterday.

SEPTEMBER 12th.

THE Court met according to adjournment.

Captain Woolcott being sworn,

General St. Clair's question. Do you recollect the orders that were given to Colonel Warner at Hubbarton?

A. I was in front when we arrived at Hubbarton, laid down, and got a sleep. When I waked, I found the party were nearly all gone. I asked Captain Smith where they were gone to, who said to Castle-Town; and having asked him whether we were to march, he said it was General St. Clair's orders, delivered by General Patterson, that we were to march to Castle-Town. I went into the house where Col. Warner, Col. Francis and Col. Hale were, and having asked Col. Warner whether he determined to march any farther, he said he did not that night; tho' there were orders to march to Castle-Town, he did not intend to go on any farther, because the men were much fatigued.

Q. Court. What time did the rear guard arrive at Hubbarton?

A. I believe it was about three or four o'clock in the afternoon.

Q. Court. What time did they leave it the next morning?

A. They commenced their march about eight

o'clock, but before the whole got in motion they were attacked by the enemy.

Q. Was Colonel Warner the commanding officer of the rear guard at the time?

A. He was.

Colonel Baldwin, being sworn, says, On the 5th of July, 1777, about nine o'clock in the evening, General St. Clair sent for me, and told me that he had determined to abandon the place that night; he would have me with the artificers, get all the intrenching tools, and the carpenters and smiths tools on board of batteaus that were assigned me for that purpose, and be ready by two o'clock in the morning to leave the place. I left him and went to my men, got every thing on board belonging to my department agreeable to order, on Ticonderoga side, by twelve o'clock. I then went to the stone redoubt, and asked Captain Winslow if he wanted any assistance? He told me that every thing was out of the magazine and on board the boats, there was nothing left but his tents, that were to be carried. I then went to Head-Quarters, and was informed that General St. Clair was gone over to the Mount. I rode over, and met him near the fort, told him what I had done, and asked him if he had any further orders? He said that the people were all asleep on this side, wished that I would go and wake General Fermoy. I went, called him up, and returned. General St. Clair then desired I would go, and see to get the stores away from the magazine that was not then open. I soon got a large party of men, went to the magazine, and rolled the barrels from it to the landing (I believe about 100 large barrels of powder.) I then went to the landing, where I found the men in great confusion, contending about boats. The wind was high, and it was bad loading them; the men very cross, and hard to be prevailed with to do their duty. About sun-rise the army was past and the boats put off. There remained only a few barrels of powder and rum, with a small matter of baggage on shore,

and there were only two batteaus that lay at a little distance. I promised Captain Nicholls, that if he could get these boats with his carpenters, and carry off what remained at the landing, I would give him a barrel of the rum when he got to Skeensborough; he immediately brought them in, got all on board (except about eight old tents that were not worth carrying, and a howitzer that we run into the Lake and left, with some carriages for cannon and General St. Clair's waggon) just as the enemy came into the works on the hill and fired upon us. The boats pushed off, and I rode away with Captain Buckland. We saw none of our people (except General St. Clair's waggoner with his horses; Captain Buckland rode one of them, and we brought off the other) until we came to the last house; there we found four soldiers partly drunk. We made them run until we soon came up with others that were too heavy loaded, and who had stopped to throw away a part. We endeavoured to bring all up with us, until we came to Colonel Francis, which was about two miles, as near as I can guess. He had then fell some small distance in the rear, by reason of people stopping to lighten their packs. I marched some time with him, but he found the front marched too fast for him. He desired I would ride forward to the General, and desire him to make a small halt till he could come up, which was done. We marched to Hubbarton, where the front halted two or three hours. We were informed that a large body of the enemy was just gone from the place where we halted as the front came up, and were gone towards Castle-Town. After the army had refreshed themselves the General ordered Colonel Warner, with some others, to wait until Colonel Francis came up with the rear guard, and then march on with them; and then General St. Clair marched with the army to Castle-Town, and took twenty-six prisoners on the way—there halted for that night, the men very much fatigued. On the morning of the seventh the rear, with Colonel

Warner and Colonel Francis, was attacked at Hubbarton; we heard the guns. General St. Clair immediately sent one of his Aids to order Colonel Bellows, with two militia regiments (that lay two miles on the road towards the rear) to reinforce Colonel Francis, and cover his retreat if it was necessary; but those regiments soon came down to us, and I heard the Aid say that he could not by any means prevail with the men to obey the order, and Colonel Bellows did all in his power to get the men to go with him to meet the enemy. The General this morning heard our boats were cut off at Skeensborough, which caused him to alter his route, and go by the way of Rutland.

General St. Clair's question. Do you recollect whether the working parties at Ticonderoga and Mount Independence were increased or decreased on or about the 23d day of June, 1777?

A. They were considerably increased. There were several works that were not finished that were ordered to be done, besides a number of new ones laid out that the men were ordered to work upon, and we continued at these works both at Mount Independence and Ticonderoga until the day we came away, besides a considerable reinforcement to the party at work upon the bridge. As the troops increased the working parties increased, we having almost every man upon the ground on duty of one kind or another. There was a regiment of militia constantly on duty in the woods, under my direction, providing timber for the bridge, that was not included in the details. I had about 100 men, besides the militia on duty with me there, that were not included in the details. I had about 30 out of the militia also making shingles, and a party making brick, not included in the details.

General St. Clair's question. Was the boom that was laid below the bridge in the Lake fixed in such a manner, that it would have been able to have resisted the shock of a vessel?

A. The anchors were chiefly lost from it, the cables

having been broken by the ice. I rather think it would not have stopped their heavy vessels, though it might their smaller ones.

General St. Clair's question. Did you receive directions for building a general hospital at Ticonderoga, and were you not employed on that work?

A. I did, from General Schuyler. I was at work on it about the 23d of June, and the greater part of the fatigue-men were then taken from that work to be put on other works. Some of the artificers were taken off, though the greater part of them continued at work on it.

General St. Clair's question. What distance is the last house you have mentioned from Mount Independence?

A. I believe not more than a quarter of a mile from the landing upon the south side of the Mount.

Captain Winslow being sworn,

General St. Clair's question. What part of the artillery, and at what post, did you command at Ticonderoga?

A. I commanded in a stone redoubt, where there were thirteen pieces of artillery.

General St. Clair's question. Were the artillery and stores that were in that redoubt removed at the time of the evacuation?

A. The stores were all removed, and six of the pieces of artillery. I loaded the cannon in a flat bottomed boat that was given me to load them in, and was ordered, I think by General Poor, afterwards to take them out to put the baggage in. There were also 40 barrels of powder there, which, with the stores, I loaded myself in the boats to go to Skeensborough, after I had got those articles down. I was then ordered by General St. Clair, as I was coming up from the boats, to spike up the remainder of the cannon, to go to the old fort to assist in removing the stores from thence.

General St. Clair's question. Were the stores generally removed from the old fort?

A. Every thing of any consequence was. They were all carried down to the boats at least, if they were not put on board.

General St. Clair's question. Were the cannon all spiked that were left?

A. I spiked all that I had the care of, and some more that were at the shore that were brought from the French lines, that could not be embarked.

General St. Clair's question. Were you Paymaster to the troops at Ticonderoga?

A. I was.

General St. Clair's question. Was the military chest saved?

A. It was. I sent it away the morning of the evacuation, about three o'clock, with four of my men. You ordered me to send it away sooner, but I could not get a boat to do it.

Q. Did the stores that were sent from Ticonderoga and Mount Independence, at the time of the evacuation, fall into the hands of the enemy afterwards?

A. They did, after they arrived at Skeensborough; though there might have been some boats that fell into their hands before they got up to Skeensborough.

Q. To Colonel Hay. Did the stores that were sent from Ticonderoga and Mount Independence, at the time of the evacuation, fall into the hands of the enemy afterwards?

A. They did at Skeensborough, after an engagement between the enemy's vessels and ours.

General St. Clair's question to Col. Hay. Was not a great part of them destroyed by fire by our people?

A. One of the vessels was blown up.

General St. Clair's question to Col. Hay. Do you recollect the number of batteaus that were at Ticonderoga, fit for service?

A. Not positively, but I imagine they were about 70.

General St. Clair's question to Col. Hay. Was the

boom below the bridge so secured, that it could resist the shock of a vessel?

A. It was secured with several anchors and cables. It would have stopped a vessel's way, so far as to have exposed her to the fire from on both sides, and made it difficult for her to get back again; but if a vessel came against it with a full wind, I never thought it would have resisted her.

General St. Clair's question to Col. Hay. Was the wind fair the night of the evacuation for vessels to come up against it?

A. It was, and blowed very hard.

General St. Clair's question to Col. Hay. If the enemy had attempted it that night, was it not probable they would have broke through every obstruction?

A. I am of opinion they would have carried away our boom and broke our floating bridge, but must probably, by that means, have been thrown athwart some of the cassoons, and thereby exposed to the fire of our batteries on both sides, until the cannon were removed or spiked up.

Lieutenant Colonel Stevens being sworn,

General St. Clair's question. Did you command the artillery at Ticonderoga at the time of the evacuation?

A. I did.

General St. Clair's question. Do you recollect what orders were given to you at the time of the evacuation?

A. About seven o'clock in the evening of the 5th of July was the first of my hearing of the intended evacuation. You waited on me at my quarters (as I was unwell) and informed me that the retreat was to take place that night. On the information, I told you I had reason to curse the day I ever put my feet into the country, there being so much retreating. You said that you had the greatest reason to curse the day, and intimated that more blame would fall on you than on me for losing the artillery. You then advised with

me what artillery to bring off, and was anxious for bringing the whole off, and offered me what assistance I wanted. I told you it was impossible to bring the whole off, on account of the deficiency of boats; and 500 men were turned out to my assistance. You had agreed to move all the pieces except the eighteen pounders, and those above them, which I got to the landing, but the scarcity of boats was the occasion of my leaving some of them there. I did make out to get a number of them to Skeensborough, but they were lost there. I should have got the whole there, had not the boats been taken up by General Poor for the men's baggage, into which the pieces were to go. The boats with the ammunition and powder had reached almost to Skeensborough before the enemy came up with them. One of them we set fire to, with fifteen tons of powder, which blew up; the rest fell into the hands of the enemy.

General St. Clair's question. Were not orders given to spike up all the cannon that could not be removed?

A. There were.

General St. Clair's question. Was that done?

A. It was. You advised with me about knocking the trunnions off, but being fearful it would make too much noise and alarm the enemy, as they were so near, it was omitted.

General St. Clair's question. Was there any artillery ordered to be fired that night, to amuse the enemy?

A. There were two eighteen pounders in the Jersey battery fired every seven minutes at their shipping, and at a battery that the enemy were raising opposite to the Jersey battery, which continued till near sunrise the next morning, to amuse them.

General St. Clair's question. At the time the enemy moved up with their gun boats, as if they meant to attack the Jersey battery, do you recollect what passed at the time between you and me?

A. You seemed to be angry at me for firing without your positive orders, and said you would rather give fifty pounds than I should have fired.

General St. Clair's question. Do you recollect my explaining to you the reason of my saying so?

A. I do not recollect your explaining to me the reason. You expressed in your discourse to me, that you wished they would come nearer, that we might have a fairer chance to sink them; and I judged that it was on account of your thinking they were not near enough.

General St. Clair's question. Did you receive any orders for dismounting and moving the cannon at Ticonderoga?

A. I did about the latter end of June, or beginning of July, from General Schuyler, and moved all the cannon above a twelve pounder, except the two eighteen pounders which were left at the Jersey battery, to Mount Independence, and laid them on skids, with their vents down, which induced the soldiers to think that a retreat was intended from Ticonderoga to Mount Independence. I moved also the ammunition by your orders, except about one hundred rounds, to Mount Independence.

General St. Clair's question. Was all the fixed ammunition removed at the time of the evacuation?

A. I have the greatest reason to think that all was brought off.

General St. Clair's question. Was there any annoyance given by the artillery to the enemy in their approaches to the place?

A. They were fired upon from the French lines, and from every quarter where they made their appearance, by heavy artillery, from the first of their approach to the evacuation.

Mr. Boyer being sworn, General St. Clair's question. In what station did you act at Ticonderoga?

A. As an Assistant Commissary of Provision.

General St. Clair's question. When I called on

you on the 5th of July for a return of provision, what quantity did you report to me to be on hand?

A. I imagine there were two thousand barrels of flour, and eight hundred barrels of beef and pork, the greater part was pork, and it was about that quantity I reported to you there was.

General St. Clair's question. Do you recollect what quantity of provision was issued as a ration at Ticonderoga?

A. I think, but am not positive, there was issued for a ration, one pound of bread, one pound of beef, or three quarters of a pound of pork in lieu of beef. That was all they daily drew. The other parts of a ration I do not remember.

General St. Clair's question. Was there any allowance made to the men for the small articles you could not furnish them with?

A. They had briefs given them for them.

General St. Clair's question. How long were you Assistant Commissary at that place?

A. About six weeks.

General St. Clair's question. Had you received any directions from any of the principals in the department, what quantity of provision to issue as a daily ration?

A. I do not remember that I had.

General St. Clair's question. Did you not issue the same ration that had been issued before you came into office?

A. I issued the same quantity that had been issued before I came into the office.

The Court adjourned till to-morrow, ten o'clock.

SEPTEMBER 13th.

THE Court met according to adjournment.

Major General St. Clair produces a certificate, signed by Lieutenant Colonel Hale and Lieutenant

Colonel May, which Lieutenant Colonel Hale acknowledges to have been written by him, and signed by him and Lieutenant Colonel May; which, being read, is as follows:

Mount Independence, July 5, 1777.

THESE may certify, that Colonel Leonard's and Colonel Wells's regiments of militia from the Massachusetts-Bay, raised to reinforce at Ticonderoga for the space of two months, do consider the term expired two months after their engaging in said service, or at furthest from the time of their march from home.

JONATHAN HALE, Lieut. Colonel.
EZRA MAY, Lieut. Colonel.

Major General St. Clair produces returns of the state of the arms and accoutrements in Colonel Francis's regiment, Colonel Scammell's regiment, Colonel Warner's regiment, Colonel Hale's regiment, and Colonel Marshall's regiment; and returns of the state of the arms in Colonel Samuel Brewer's regiment, and Colonel Cilley's regiment; also a return of the arms wanted in the artillery; a certificate from Major Hull; and copies of two letters from him (General St. Clair) to General Schuyler, dated Ticonderoga, June 25th, and June 26th, 1777; which, being read, are as follows:

A RETURN *of Non-commissioned Officers and private Soldiers in a Battalion of the Massachusetts-Bay Forces, commanded by Colonel* EBENEZER FRANCIS ; *together with a true State of their Equipments.*

Companies.	Number of Men.	Arms.	Iron Ramrods.	Bayonets.	Gun-slings.	Bayonet Belts.	Knapsacks.	Blankets.	Cartridge-boxes.	Drums.	Fifes.	Brushes.	Priming-wires.	Screws.	Oil-cloths.	Wanting to compleat. Arms.	Iron Ramrods.	Bayonets.	Gun-slings.	Bayonet Belts.	Knapsacks.	Blankets.	Cartridge-boxes.	Drums.	Fifes.	Brushes.	Priming-wires.	Screws.	Oil-cloths.
Capt. Porter's, - -	58	56	40	34	10	12	50	56	54			6	6	2			18	24	48	49	8	2	4	1	1	52	52	54	58
Capt. Page's, - - -	41	40	38	35	15	33	39	23	38	1		8	5				3	6	26	8	2	18	8		1	33	36	40	40
Capt. White's, - -	65	63	40	35	4	4	20	6	62								23	28	59	59	45	59	1	1	1	36	36	63	63
Capt. Maybury's, - -	75	73	67	67	2	61	53	61	72	1							6	6	71	12	20	14	1		1	73	73	73	73
Capt. Wheelwright's, -	49	49	34	37	12	18	32	44	40								15	12	37	31	17	5	9	1	1	49	49	49	49
Capt. Greenleafe's, -	62	62	51	36	3	17	20	55	55								11	26	59	45	42	7	7	1	1	62	62	62	62
Capt. Thoms's, - -	63	63	24	26	4	15	47		61			2	2				39	37	59	48	16	63		1	1	61	61	63	63
Total.	413	406	294	270	50	160	261	245	382	2		16	13	2			115	139	359	252	150	168	30	5	7	366	369	404	408

N. B. One Company on command at Fort Ann, which is not inserted in the above Return.

EBENEZER FRANCIS, Colonel.

A RETURN of Arms and Accoutrements belonging to the Third New-Hampshire Battalion, in the Service of the United States, commanded by ALEXANDER SCAMMELL, *Esq.*

	Good	Bad	Wanting
Arms,	408	14	0
Bayonets,	413	0	9
Cartridge-boxes,	294	0	128
Priming-wires and Brushes,	17	0	405
Horns,	144	0	278
Pouches,	31	0	391

ALEX. SCAMMELL, Colonel.

Ticonderoga, June 18, 1777.

A RETURN of Arms and Accoutrements of Colonel SETH WARNER'S *Regiment.*

	Good	Bad	Wanting
Firelocks,	140	40	18
Bayonets,	46	1	151
Ramrods,	107	55	36
Cartridge-boxes,	153	7	38
Pouches,	6	1	191
Waist-belts,	63	0	135
Slings,	6	0	192
Scabbards for bayonets,	48	2	148

SETH WARNER, Colonel.

Ticonderoga, June 17, 1777.

A STATE of the Arms and Accoutrements in Colonel HALE'S *Regiment.*

	Good	Bad	Wanting
Muskets,	355	15	0
Bayonets,	359	0	11
Cartridge-boxes,	347	0	8
Priming-wires and Brushes,	21	0	334
Horns,	91	0	264
Pouches,	28	0	327

WILLIAM ELLIOT, Adjutant.

Ticonderoga, June 17, 1777.

A STATE of the Arms and Accoutrements in Colonel MARSHALL'S *Regiment.*

	Good	Bad	Wanting
Muskets, - - - -	258	68	18
Bayonets, - - - -	156	0	188
Cartridge-boxes, - - -	267	0	77
Prickers and Brushes, -	49	0	295
Horns, - - - - -	60	0	284
Pouches, - - - -	51	0	293

THOMAS WEEKS, Adjutant.

Ticonderoga, June 17, 1777.

A RETURN of the Arms in Colonel SAMUEL BREWER'S *Regiment.*

	Good	Bad	Wanting
Muskets, - - - -	126	121	10

SAMUEL BREWER, Colonel.
TIM. WHITING, Quarter-Master.

Ticonderoga, June 17, 1777.

A RETURN of the State and Condition of the Arms in the First New-Hampshire Battalion, commanded by Colonel JOSEPH CILLEY, *Esq.*

Arms in good Order with Bayonets, - -	336
Arms in Bad Order, with Bayonets, - - -	24
Arms in good Order, without Bayonets, -	40
Arms out of Repair, without Bayonets, - -	11
Arms wanting, - - - - - -	2

C. STARK, Adjutant.

Ticonderoga, June 17, 1777.

A RETURN of Arms wanted in the Corps of Artillery, commanded by Major EBENEZER STEVENS.

Arms wanted, - - - 50

Major Stevens's compliments wait on General St. Clair, begs him to give an order for the above number

of new arms, as his men had all of them Four Pounds Ten Shillings, lawful money, stopped for this purpose; and as his men now mount guard, they stand in absolute need of them.

Your Honour's most obedient humble Servant,
EBENEZER STEVENS.

Major General St. Clair.

Albany, August 13, 1777.

THIS may certify, that the detachment of Colonel Michael Jackson's regiment, which was under my command at Ticonderoga at the time of its evacuation, was very poorly cloathed, many of their arms out of repair, and about one third of them destitute of bayonets.
Wm. HULL, Major.

Ticonderoga, June 25, 1777.

Dear General,

I INFORMED you yesterday that an encampment of the enemy had been discovered at Gilliland's Creek. Last night two of their vessels came up to Crown Point, and this morning there are seven lying at that place; the rest of their fleet is probably but a little lower down, as we heard their morning guns distinctly at different places. They have also debarked some troops, and encamped upon Chimney Point. Whether they have landed at Crown Point my scout-boat did not discover, not daring to venture far enough down the Lake for that purpose, on account of their shipping; but I have sent a party on this side the river, which, I doubt not, will bring a just account of their situation.

I cannot help repeating to you the disagreeable situation we are in, nor can I see the least prospect of our being able to defend the posts, unless the militia come in; and should the enemy protract their operations, or invest us, and content themselves with a simple blockade, we are infallibly ruined. I have

thoughts of calling for the Berkshire militia, which are nearest to us, and will probably be the most alert to come to our assistance, because they are in some measure covered by this post; but on that I shall consult the other General Officers. This, however, is clear to me, that we shall be obliged to abandon this side, and then they will soon force the other from us; nor do I see that a retreat will in any shape be practicable. Every thing, however, shall be done, that is possible, to frustrate the designs of the enemy; but what can be expected from troops ill armed, naked and unaccoutred. I shall write you again as soon as the scout returns,

And am, dear General, &c.

A. ST. CLAIR.

The Hon. Major General SCHUYLER.

SIR, *Ticonderoga, June* 26, 1777.

THIS moment I have received information from Hoite, of Otter Creek, that a large party of Indians and Tories are gone up that Creek, supposed to be five hundred, and are designed to cut off the communication by Skeensborough. They took a pair of oxen from one of the inhabitants, and drove them to about two miles above Middlebury Falls, where they halted the day before yesterday, and killed and dressed the cattle; and it is supposed that to-night they will be at the new road near Castle-Town, which is twenty-eight miles from hence, and twelve or fourteen from Skeensborough. They reported that a very large party were gone on the west side of the Lake, to fall on Fort George. That is said to consist of 1000 Indians and Canadians.

We have also had just now another attack at the mills; we have two men killed, two taken, and two wounded, one mortally. The scene thickens fast, and Sunday next, it seems, is fixed for the attack on this place. We must make the best we can of it, and I

hope at least to cripple them so as they may not be able to pursue their fortune, should it declare in their favour.

I sent a party down last night to reconnoitre them, who are not yet returned, which gives me some uneasiness. I hope, however, they are safe, and will bring me some intelligence of consequence. I have some thoughts, if they are not numerous, of attacking them. If they get the worst, it will oblige them to recal their parties. If not, there will be too many still left, to become prisoners.

I have sent to the Grants to inform them of the Otter Creek party, and to desire that all they can possibly spare of the militia may be ready to march at a minute's warning.

I am, dear General, Your's, &c.

A. St. CLAIR.

The Hon. Major General Schuyler.

Major General Schuyler being sworn,

General St. Clair's question. What troops had you estimated for the defence of the garrisons of Ticonderoga and Mount Independence?

A. Ten thousand continental troops. I do not know that I mentioned in my letter to General Washington and to Congress that they should be continental troops, but I intended them to have been continental troops.

General St. Clair's question. Did you think the posts tenable with the force I had?

In answer to this question, General Schuyler produces an extract from a copy of a letter to Congress, dated the 8th of June, 1777, which he says was sent by express to Congress, and was received by them about the 13th of June, but he did not receive any answer to the letter till late in July. The extract is as follows:

Extract of a Letter from Major General Schuyler to the Honourable the Continental Congress.

SIR, *Albany, June* 8, 1777.

I DO myself the honour to advise you that I arrived here on Tuesday, the 3d instant, and found an account, which I received on my way up, that the enemy were approaching Ticonderoga, to be without foundation.

I inclose you, Sir, a return of the troops at Ticonderoga and this place. As soon as I procure those from the other posts, I shall make out a general return, and do myself the honour to transmit copies to you and his Excellency General Washington.

You will perceive, by the return of the Commissary of Provision, which I also inclose, that only 337 barrels of provision, of the meat kind, have been forwarded to Ticonderoga since the 26th of March, and no fresh beef; so that the stock of salted provision since that time is considerably diminished, nor is there any considerable quantity provided in the country. I have, therefore, directed the Commissary to forward an immediate supply of fresh beef, that as much of the salted beef and pork may be saved as possible, in order to have a stock on hand, in case the enemy should be able so to interrupt the communication, as to prevent cattle being sent on.

Inclose you copy of the instructions I have given General St. Clair: I have directed that Mount Independence should be the primary object of attention.

First. Because, if the lines on the west side should be perfectly compleated, it will not be in our power to man them properly with the whole force destined for this department, if it could be all collected at Ticonderoga, which it cannot; for the several posts on the Mohawk river, and those on the communication between this and Ticonderoga, will take at least 2000 men. I have in view the drawing part of the army to this side of the Lake.

Second. Because I think it rather imprudent that the greater part of our army should occupy a post, which, if the enemy should be able so to invest, as to cut off the communication with the country on this side, we might possibly experience a disaster similar to that at Fort Washington.

Third. I am fully convinced that between 2 and 3000 men can effectually maintain Mount Independence, and secure the pass.

Fourth. If the whole army was at Mount Independence, it is possible that a want of provision might oblige us to abandon that important post.

Fifth. If the enemy should attempt to draw their boats over land into Lake George from beyond the Three Mile Point, our naval strength on Lake George will prevent their progress : If it did not, we shall have a body of troops to oppose them with.

Sixth. Because, if Mount Independence should be invested, the militia will readily join when they have an army to join, and the siege may be raised.

Seventh. Because, if they should attempt to march a body of troops from Crown Point, leaving Ticonderoga on their left (by the road last year cut by the tories who joined General Carlton) to interrupt the communication, there will be a force to meet them, and to prevent the evil consequences of such a manœuvre of their's.

Eighth. Because, if a sudden irruption should be made on the Mohawk River, or from New-York by Hudson's River, a force will be at hand to face them. Besides these considerations, there are œconomical ones also to induce me to this disposition of the army, if it can be done without injury, which I am fully of opinion it may, and will certainly be so, if General Carlton sent part of the troops from Canada to New-York or elsewhere.

I have mentioned the matter to General St. Clair, and although I did not adduce to him all the reasons

given above, yet he is in sentiment with me on the subject. May I be permitted to intreat the direction of Congress.

[*True Copy.*] PHILIP SCHUYLER.

General Schuyler says further, in answer to the question, that when he mentioned in the letter to Congress that between two and three thousand men were sufficient to have maintained Mount Independence, he conceived the fort, about which orders had been given the beginning of February to Colonel Baldwin, was far advanced; that the obstruction in the Lake was compleated; that there were carriages provided for the cannon; that the lines were compleated; and not by one half so extensive as he found them.

General St. Clair's question. Did you ever give me any orders for evacuating these garrisons?

A. No. The reason why I did not give you any orders for evacuating these garrisons was, because I had wrote this letter to Congress, and they did not give me any orders about it; and as the continent conceived them of great importance, and very strong, I did not think myself at liberty to give any orders for an evacuation of them.

General St. Clair's question Was the defective state in which you found the works at Ticonderoga and Mount Independence owing to any negligence in me, or disregard to the orders I received from you?

A. It could not be owing to any negligence in you, or disregard to the orders you received from me, as you had arrived there but a few days before; nor was it owing to the negligence of any officer who had commanded there in the winter or spring before; nor to the commanding officer of the artillery or the engineer. I conceive it to be owing to a want of men and a want of materials.

General St. Clair's question. Do you know of any steps taken by the eastern states to reinforce these posts, after their investiture?

A. Immediately on my return from Ticonderoga, I wrote to the eastern states to hasten on the remainder of the continental troops. Some troops came up in consequence of my application, but did not reach Albany till some time after the evacuation of Ticonderoga. Upon receiving the first letter from you after I returned from Ticonderoga, I applied to the eastern states, and to this, for reinforcements of militia. The militia from the Massachusetts arrived at Fort-Edward, I believe, between the 4th and 7th of July. A few from Connecticut did not join us until towards the latter end of July. Those from this state got up much about the same time that the Massachusetts did. The Massachusetts militia were up as soon at Fort-Edward, and those from this state, as I could reasonably expect them to be. Connecticut, as I was informed by Governor Trumbull, had a call for the militia from General Washington, to go to the Highlands or Peeks-Kill. That was the reason that their militia did not join us sooner.

General St. Clair's question. Did the force you had collected, supposing the garrisons to have held out, put you in a situation to have raised the siege?

A. I believe that, with all the troops you brought with you, with the reinforcement with General Nixon, and including all the militia, I had not at Fort-Edward, about the 20th of July, more than five thousand men. If the garrison had remained, I should have had no more than three thousand militia, before I was joined by General Nixon, to have marched to its relief, which number I conceive very inadequate to have raised the siege. General Nixon, I believe, arrived about the 12th or 13th of July; but if I had had a force which I might think was sufficient, yet I should not have been able to have raised the siege for want of provision, there being scarcely any provision of the meat kind in the department; flour was plenty. Nor was there any stock of provision of the meat kind laid in, not even a sufficiency of salted meat to have furnished the

scouts with. We had not lead in the department sufficient for an army any thing like to have raised the siege with. At Fort-Edward, on the 7th of July, we were obliged to strip the men that were there of every cartridge they had, to send them to Fort-Ann, and were left without any lead for some days, excepting a mere trifle I got from Albany, a very small quantity brought up by the militia, and by stripping the windows.

General St. Clair's question. Do you know the usual weight of a barrel of beef or pork in that country?

A. Barrels of beef or pork should weigh, when they are well packed, about 200 weight; but I have frequently complained that the barrels of beef or pork of the Commissary's were not so well packed as they ought to be, owing to their making use of soldiers and others, whom I supposed did not understand the business so well, so that the barrels were but slightly packed. I have seen some that I suppose a quarter of meat might have been put in more, others that the deficiency was less. I should imagine, if the rest of the barrels were the same as those I inspected into, they would not have averaged more than 170 pounds each.

General St. Clair's question. Did I not, when it was determined in the Council of Officers that was held the 20th of June, 1777, respecting the holding Mount Independence and evacuating Ticonderoga, express my opinion that it would be impossible to hold that post, when the other side of the Lake should be abandoned?

A. I remember perfectly well you did.

Colonel Scammell being sworn,

General St. Clair's question. Do you know any instance of cowardice, treachery, or inattention to the progress of the enemy, that I was guilty of during my command at Ticonderoga?

A. I do not.

Major General St. Clair admits, that in the number of men returned on command the 28th of June, there were about 457 on command in the garrison.

The Court adjourn till to-morrow, ten o'clock.

SEPTEMBER 14th.

THE Court met according to adjournment.

Major Dunn, Aid de Camp to General St. Clair, being sworn, says:

I arrived at Ticonderoga about the 18th of June, 1777. A day or two after my arrival I went round the lines on Ticonderoga, and found them much in the same situation as they were in November, 1776, excepting the redoubts on the low ground, which were evacuated, and a chain of new ones erected on the height between the old fort and the right of the French lines. These were nearly compleated. In some cannon were mounted, and a party of fatigue at work on the rest. On Mount Independence I found a party of about 100 men, under the direction of Colonel Koseiuszko, erecting three redoubts in the rear of the Mount, and forming an abbatis, the old one having taken fire some time before, and was chiefly destroyed. One other party of about 150 men, under Colonel Baldwin, sinking a number of piers in the passage between the two posts. One other fatigue party, employed daily in bringing stores and provision from Lake George Landing. Besides these, Colonel Hay, the Quarter-Master General, had a party of Negroes, taken from the different regiments, as a constant fatigue, independent of the daily detail. There were two regiments of militia cutting logs for the piers then sinking, these were likewise independent of the daily detail, and exempt from all other garrison duty. All these parties of fatigue were continued as above, with very little alteration, till the evacuation took place. Being the only Aid de Camp belonging to General St. Clair's family, most of the orders delivered were

through me, and therefore I had the greatest opportunities of seeing all parties that were sent out; and after my arrival, I do not remember a day that parties were not sent out on the east or west, and frequently on both sides of the Lake Champlain, to reconnoitre the Lake and woods. Those parties consisted from 15 to 50 men. I do not recollect exactly the time the enemy first made their appearance on the Lake, but remember perfectly, after their appearing with their fleet at Split-Rock, that no party could be perswaded (because of the savages) to approach near enough to discover any thing of consequence. They frequently fell in with the enemy's parties, but were always obliged to retire. In this state we remained till the enemy landed on Three Mile Point, I think on the 30th of June; and on this occasion I heard the General complain that his garrison was not in force to risque a party large enough to do them any damage. This occasioned the parties being reduced; sometimes not more than one officer, and two or three men, was thought the most eligible mode to discover the movements of the enemy. A look-out boat was also stationed between the enemy's fleet and the Jersey redoubt, to apprize the garrison of any movement in the fleet. On the enemy's landing at the point, the General ordered all the provision and stores at Lake George Landing immediately removed into the lines; the batteaus and boats to be in readiness to move to Fort George on the shortest notice. The enemy, advancing towards the lines, on the first or second day of July took possession of the heights between the landing and the old French lines. The boats were ordered to move to Fort George, and the troops posted at the landing and saw-mills ordered into the garrison, which was effected without any loss. The communication between the garrison and Lake George was now effectually cut off, the enemy being in possession of the heights in our front. Their light parties made frequent attacks on our picket, which consisted

of fifty men, posted some distance in front of the lines. On those occasions, and every other alarm that came to my knowledge (and I believe none escaped me) the General always appeared at the lines, going from right to left encouraging the troops, putting them in mind of the cause they were engaged in, telling them to keep themselves cool, and not to throw away their fire if the enemy should approach; that he wished for nothing more than a serious attack, and did not doubt but we should repulse them if they did attack. Such was the General's personal attention to the posts, and the movements of the enemy, after they landed at Three Mile Point, that I do not believe he slept one hour in four and twenty, on an average, till the evacuation took place. As to the quantity of provision I can say but little; but I recollect, soon after my arrival, General Schuyler's expressing great surprize that no magazines were formed at Albany, or any other place nearer than that, for the supply of the garrison. He sent Mr. Yancey immediately to the country, and pressed him in the strongest terms to spare no pains in obtaining provision for the post; that if the enemy should come on, we should be reduced by famine; adding, at the same time, that the neglect of the Commissaries had been such, that he believed it would be serving the public to hang at least one of the department.——The following are the particulars I recollect respecting the retreat. About eight o'clock in the evening, July 5, I saw the ammunition and cannon removing on board the vessels and to Mount Independence. I was at this time ignorant of the retreat. About nine o'clock the same evening General St. Clair sent me with orders to General Fermoy, that he should direct all the stores, ammunition, cannon, baggage, &c. to be taken to the foot of the hill on the east side of the Mount, where they were to be put on board batteaus for Skeensborough. I returned, after delivering the order, to Ticonderoga, and was sent by the General with orders to the Officer in the Jersey

redoubt, to continue firing his cannon every half hour towards the battery the enemy were erecting opposite to the redoubt till further orders. About twelve o'clock the same evening I was again sent to Mount Independence. I found General Fermoy near his house, with his own baggage. I went to the landing, where I found Colonel Hay directing the loading the boats, with between three and four hundred men carrying down the stores, &c. but, for want of proper orders and attention from General Fermoy, every thing appeared in the greatest confusion. About this time they began to strike their tents on Mount Independence, all of which, I believe, were put on board the boats. At two o'clock General St. Clair left Ticonderoga, all the stores, ammunition, artillery and camp equipage from that side being removed, except the heavy cannon, which, from our small number of men and want of draught cattle, could not then be removed. All the tents and hospital stores, most of the ammunition and light cannon, were also removed from Mount Independence. Some provision, I cannot say what quantity, and most of the heavy cannon, were left; all the batteaus and boats were however loaded. About three o'clock in the morning the troops were put in motion for the evacuation, but General Fermoy having set fire to his house (contrary to positive orders) which lighted the whole Mount, and gave the enemy an opportunity of seeing every movement we made, it damped the spirits of our own troops; the militia regiments pushed out of the Mount in disorder, and were followed by a number of continental troops; the guards from Ticonderoga had also to pass the light, and rushed forward in confusion. The General at this time rode to the front, and obliged them to halt, and formed a line of march in rank and file, the roughness of the country and badness of the road permitting no other. Having effected this, he returned to the rear, which still remained at the foot of the Mount. It was near four in the morning when the rear began to

march. Colonel Francis, who commanded the rear guard, followed immediately after, and the line continued in good order till we arrived at Hubbarton, where the whole were halted to refresh. The halt was near two hours. Most of the stragglers and rear guard having joined us, the army was again put in motion. The rear guard here was given to Colonel Warner, with orders to halt about one and a half mile short of the main body, which would remain that night at Castle-Town, about six miles from Hubbarton, and to march in the morning by four, and join the main body. In the morning the General paraded the army, and waited near two hours for the rear guard. About seven o'clock a firing began on Warner's party, and on enquiry found he had halted at Hubbarton. The General expressed his surprize that his orders were disobeyed. He dispatched myself and Major Livingston to order two militia regiments, that had halted between the main body and Warner, to reinforce him (these regiments were commanded by Colonel Bellows) and if the enemy should appear in much superior force, that Warner should retreat to Rutland, where the main body would be to cover him. Those regiments of militia refused to go up, tho' positively commanded, and afterwards intreated, by Colonel Bellows. This delay occasioned Warner's retreat to Rutland, where the main body received him. The militia regiments returned, and although myself on horseback, and three miles from the main body, they arrived there with me. I rode express.

Q. Court. Besides the parties you have mentioned on fatigue, do you recollect whether there was a brigade ordered for fatigue on Mount Independence about the 23d of June?

A. I do recollect there was a brigade ordered for fatigue on Mount Independence about that time, which was exclusive of the parties for fatigue I have mentioned.

Q. Do you know the time General St. Clair re-

ceived information of the strength and designs of the enemy?

A. I do not know the time.

Q. Did General St. Clair remove any of his baggage from Ticonderoga at any time previous to the evacuation?

A. No part of it. His son went off, I believe, about a week before, but did not even carry all his own baggage with him. About the time General St. Clair's son went away, General Fermoy's baggage was removed from Head-Quarters to Mount Independence, he having lived with the General until that time.

Q. What distance is Split-Rock from Ticonderoga?

A. About thirty-seven miles.

Q. What distance is Gilliland's Creek from Ticonderoga?

A. About forty-two miles.

Lieutenant Colonel Livingston, Aid de Camp to General Schuyler, being sworn, says:

About the middle of June, 1777, General St. Clair (agreeable to orders from General Schuyler) took upon himself the command of Ticonderoga and Mount Independence. A few days after I went to Ticonderoga, in company with General Schuyler. After being there a few days, General Schuyler found it necessary for the service to return to Albany, and the command in that department continued in General St. Clair, with whom I had the honour of serving during the siege and on the retreat. Previous to the enemy's appearance before Ticonderoga, every method was made use of to gain intelligence of their movements and intentions. For this purpose scouting parties, properly officered, were kept out on the east and west sides of Lake Champlain. These parties were generally selected from a corps of rangers, who had been accustomed to services of this kind. The General did not confine his attention to the article of intelligence alone. No measures were neglected to strengthen the works on both sides of the Lake. Fatigue parties were daily

employed in this duty, and the direction of them generally committed to Colonel Koseiuszko, an active officer, who acted as an assistant engineer in the northern department. The obstructions of the navigation at Lake Champlain was also attended to. Besides a very slight boom, which had been thrown across the Lake during the command of General Gates, large cassoons were sunk between Mount Independence and Ticonderoga, altho' this arduous work was not compleated when the evacuation took place. On the 26th of June, or thereabouts, our scouts observed an encampment of the enemy at Crown-Point, fifteen miles from Ticonderoga. From this time it became exceedingly difficult to procure any intelligence of the strength or movements of the enemy, as the woods between us and Crown-Point were so infested with savages as to render it exceedingly hazardous to send small parties that way, and the force of the garrison was too weak to justify the detaching a large number. Not many days after, I think it was on the last of June, the enemy's gun-boats appeared off Three Mile Point. The same day there was a skirmish between a scout from the garrison and the enemy. Our party were worsted, and obliged to retire with a little loss. A considerable body of the enemy then took possession of Mount-Hope. This height commanded the road between Ticonderoga and the North Landing of Lake George. It had been fortified by us the preceding year, but was dismantled long before General St. Clair's arrival in that quarter. The old block-house at the north end of Lake George was still in our hands. A subaltern's guard was left in it, to protect the public stores which were lying at that landing. The enemy did not suffer this officer to remain long in peaceable possession; they attacked him with small arms, and were repulsed. The General, aware of the dangerous situation of the block-house, and that the small garrison there must soon be overpowered by numbers, or be obliged to submit on the appearance of artillery, judged it

necessary to order them within the lines. This was effected just in time, and without loss. The communication between Ticonderoga and Lake George, by the main road, was now entirely cut off, which rendered it impracticable to bring the stores from the Lake within the fort. There was now great danger of their falling into the enemy's hands. To prevent a loss of this kind, the General ordered the stores to be immediately put on board the batteaus, and carried back to Fort George, on the south side of the Lake. This service was executed without loss, and no further communication possible between Ticonderoga and the country by the way of Lake George. The enemy continued to make their approaches on the Ticonderoga side of the Lake. It was impossible, from the weakness of the garrison, and the great extent of works we had to defend, to give them much interruption in their approaches. But the movement of the enemy, which gave the greatest alarm to the garrison, was the very rapid progress they made in clearing a road, and getting artillery on Sugar Hill or Mount Defiance. This proceeding was the more surprising, as it had been in agitation during the command of General Gates (in the fall of 1776, after our misfortune on Lake Champlain, when an attack on Ticonderoga was daily apprehended) to occupy that height with artillery, but was judged to be impracticable. This hill had such an entire command of Ticonderoga, that the enemy might have counted our very numbers, and enfiladed every part of our works. After possessing themselves of this commanding height, it would have required but a few hours more to invest us on all sides. This might have been effected by only occupying the ground on the east side of Lake Champlain below Mount Independence, where the pass from the Lake to East Creek is very narrow. Had this taken place, our communication with the country had been at an end, no further supplies of provision or men could have

reached us, nor would a retreat, in case of necessity, then been practicable. But before this was effected, it was determined in a Council of War to retire from Ticonderoga and Mount Independence. This resolution was entered into on the evening of the 5th of July, and very early in the morning of the 6th the troops left the ground. Measures for the evacuation were concerted with the greatest secrecy, to keep the enemy ignorant of our designs. The centinels within the works were ordered to challenge no person that night. This order I carried myself to the guards on Ticonderoga, though I was ignorant of the reason of such an order. The guns at the French lines were spiked; but, to amuse the enemy, the Jersey battery kept up a regular fire during the night. The General also sent me to the old French redoubt, which commanded the bridge between Ticonderoga and the Mount, to order the officer commanding the artillery there not to spike the guns in that redoubt until further orders, as this redoubt might have been of service in covering our troops on their passage across the bridge; but I found that through some mistake those guns had already been spiked. What stores it was possible to remove in the course of one night, or rather in the space of a few hours, were put on board the vessels and batteaus in Lake Champlain, and sent for Skeensborough under Colonel Long, with the invalids and sick of the hospital. Many barrels of powder, in particular, I remember were taken from the magazine, and put on board the vessels, though they afterwards fell into the enemy's hands, or were blown up. The remainder of the army, under General St. Clair himself, retired by land. The rear guard was under the command of Colonel Francis. The army the first day reached Castle-Town, about thirty miles from Mount Independence. We made a halt of between one and two hours at Hubbarton, twenty odd miles from the same place. Before our leaving that town, the General ordered the rear guard to halt a mile or two short

of Castle-Town, where he intended to stay with the army that night. The General had no reason to doubt but these orders would have been attended to, and therefore was not a little surprised to find early the next morning that the rear guard was still at Hubbarton, which is six miles distant from Castle-Town. At this distance from the army, they were attacked by General Frazer's corps. The rear guard was increased by many who at first did not belong to it. This was owing to the excessive bad roads and very heavy marching, which prevented many, who were more feeble than others, from keeping pace with their regiments. These were picked up by the rear guard, agreeable to orders. At the time of the engagement, I imagine it could not amount to less than 1000 men. The moment the firing was heard at Castle-Town, the General determined to support the rear guard at Hubbarton. The troops at Castle-Town were already under arms, and ready to march when the firing was first heard. They were then ordered to keep their ground, and Major Dunn and myself were dispatched with orders from the General to Colonel Bellows, who lay with his and another militia regiment between Castle-Town and Hubbarton. Our orders were to direct Colonel Bellows to march with those two regiments immediately to the assistance of Colonel Francis, and to assure Colonel Bellows at the same time that they should be farther supported, if necessary. In riding towards Hubbarton we were met by these regiments, which were marching with speed towards Castle-Town. We delivered our orders, but could not prevail upon either regiment to reinforce the rear guard; though, in justice to Colonel Bellows, it must be said, he was in the rear of the regiment, and warmly persuaded them to go to the field of action. An unaccountable panic had seized his men, and no commands or intreaties had any effect on them. Finding it impossible to turn these regiments to this necessary piece of service, we rode on

towards the scene of action, to find how matters were situated there, and report to the General; but we had not proceeded far before we were met by Capt. Chadwick, with about 30 men. Capt. Chadwick had just left the field, and informed us that the action was at an end, that our men were dispersed, that the communication between us and Hubbarton was cut off, so that we should run the greatest risque of being made prisoners if we proceeded any further that way, and that the enemy were in possession of the field of battle, in great force. The firing (which had been very smart) having ceased, countenanced this intelligence, and we returned to Castle-Town and apprized the General of it. General St. Clair now thought it unnecessary to send any further reinforcement to Hubbarton, and prepared to pursue his march. But here I must not forget to mention the conduct of the General towards two eastern regiments of militia, commanded, I believe, by Hale and Learned. These regiments had shewed much discontent on the march the preceding day, and began now to be very clamorous to be dismissed. The General, apprized of this spirit of discontent in these regiments, ordered them to be paraded at Castle-Town, on the morning of the action at Hubbarton, and addressed them in person. He spoke on this occasion in so forcible and pathetic a manner, that the regiments, ashamed of their conduct, consented to remain with the army as long as there was any prospect of immediate danger from the enemy; but the plundering disposition they discovered on the march, and their other disorderly behaviour, obliged the General a day or two afterwards to dismiss them from the army with disgrace. The army after this continued their route through several towns, east of Castle-Town, without any further interruption from the enemy, to Hudson's River. I am very well perswaded that it was General St. Clair's intention at first to have marched by Skeensborough to Fort Edward; but an officer of one of our gallies

on the Lake arrived at Castle-Town before we left it, and informed the General that the enemy were pursuing in force that way, who would reach Skeensborough before he could possibly get there, and that some vessels had already fallen into their power. This determined the General to change his intended route, and take the road he afterwards did. Before we reached Hudson's River, General St. Clair dispatched me to inform General Schuyler of the situation of his army. So far as I had an opportunity of observing General St. Clair's conduct, it reflects high honour on him. Previous to, during the siege, and on the retreat, he gave proofs of his attention, activity and courage. The garrison were always under arms at their proper posts before sun-rise, and frequently before day-break. The General was always out on these occasions himself, and was an example of vigilance to the soldiery. I do not remember, tho' I lived in the same quarters with him the greater part of the time during the siege, that he ever undressed himself at night. All night, indeed, he would scarcely ever permit himself to sleep. If he did, it was not above an hour or two, tho' the gentlemen about him would frequently observe that he would certainly injure his health unless he indulged himself with more sleep. In case of alarms, which were very frequent, he always appeared at the lines, encouraging the soldiery by his presence and exhortations. On the retreat, he preserved as much order in the army as was possible thro' such bad roads, and so rough a country.

Q. Do you know the time General St. Clair received information of the strength and designs of the enemy?

A. I do not.

Major General St. Clair, having concluded the testimony in his behalf, desires the Court to give him time to make his defence.

The Court, taking into consideration the General's

desire, do give him till the 21st instant for that purpose.

The Court adjourn till the 21st instant.

Major General Lincoln's Quarters, near Quaker-Hill, September 28th.

THE Court were to have met, by order of his Excellency General Washington, at this place. Not a sufficient number of members attending, the members present, being a majority of the Court, adjourn till to-morrow, nine o'clock.

Major General Lincoln's Quarters, near Quaker-Hill, September 29th.

THE Court met.

Major General St. Clair produces a letter from him to Major General Schuyler, dated the 10th of June, 1777; and extracts from a letter to General Schuyler from him, dated June 28, 1777; which are as follow:

Dear General, *Fort George, June* 10, 1777.

I GOT to this place yesterday, having met with nothing on the communication necessary to inform you of, except that at Fort-Edward there is neither beef nor pork, but what is brought from hence. It seems to me a very extraordinary procedure, to be transporting provision from Fort Edward to the Lake, and then bringing it back for the use of that garrison, and must arise from the greatest inattention in the Commissary. The commanding officer informs me he wrote repeatedly to Mr. Avery about this matter, and that this is the third time he has been in the same predicament.

A considerable quantity of provisions are still here, which are getting over as fast as possible. I believe they will be all over before we see the enemy, who,

by General Poor's letters, are making no motions that indicate a sudden approach.

General de Fermoy presents his compliments, and begs you would send him a German, of the name of Chapman, he took out of goal in Albany. He wants him for some particular purpose, for which he thinks he can depend upon him; but if you are suspicious of him, that you would order him up with a file of men.

I shall pass the Lake this morning, and after my arrival shall send you the state of Ticonderoga as soon as possible. With every sentiment of esteem, I am, *Dear General,*

Your most obedient humble Servant,

A. ST. CLAIR.

Extracts from a Letter to General SCHUYLER, *dated Ticonderoga, June* 28, 1777.

Dear General,

MY scout, on which I depended much for intelligence, is not yet returned, nor I fear ever will now. It consisted of three men only, the best of Whitcomb's people, and picked out by him for the purpose. The woods are so full of Indians that it is difficult for parties to get through. I shall send off Whitcomb himself presently, for intelligence I must have, altho' I am very loth to put him upon it, lest he should fall into the hands of the enemy, who have no small desire to have him in their power.

I sent Colonel Warner to the Grants yesterday, to raise a body of men to oppose the incursions of the savages that are gone by Otter-Creek, and have ordered him to attack them, and join me again as soon as possible. I am very happy to find the country was apprized of the march of that party before Colonel Warner got to Skeensborough, as it will probably prevent their success, and may end in their ruin.

We are going on with the necessary works on the

Mount as fast as possible, and have removed the most valuable of the stores and provision to that side. The bridge is in very little more forwardness to appearance than when you left this place, but they tell me this day will finish the getting timber for it. The boom is likewise placed, but very feebly secured, for want of cables.

I could wish the batteaus were all over soon, or that you would not send them. I am extremely apprehensive the enemy will possess themselves of the Landing, in which case they might fall into their hands. We cannot venture the teams now without a strong guard, and so many parties as we are obliged to make, with the fatigues, will very soon wear down our men.

We can do nothing but form conjectures about the force of the enemy, for I cannot find a single person, on whom I can depend, to venture amongst them for intelligence; but, from their manner of beginning the campaign, I conclude that they are either in full force, or very weak, and hope by letting loose the Indians to intimidate us. I incline to believe the last, but have as yet no certain rule to go by; however, we must know soon, and it is said they have marked tomorrow to attack. I beg leave to refer you for further particulars to Colonel Varrick, who takes the charge of this, and am, *Dear General,*

A. ST. CLAIR.

The Hon. Major General SCHUYLER.

Major General St. Clair, being requested to make his defence, says as follows:

HOWEVER disagreeable it may be to appear before a Court, a prisoner, and in the light of a criminal, I am happy that my conduct, which has been so much censured at large, is at last to be enquired into by a proper judicatory, and that, after so long a delay,

and so injurious a discrimination, public justice will be done upon a full, an impartial, and dispassionate examination, and that it will be passed upon by men equal to the task of investigating the truth, however artfully concealed, and determining upon the intrinsic merit of military actions, stripped of the glare that is sometimes thrown upon them by success, or the false lights in which they are often placed by consequences. If I am guilty of all, or any of the charges against me, I wish not to escape punishment; but, conscious of no crime, I hope by your sentence, upon a candid comparison of the testimony, to have those stains wiped from my character, with which it has been suffered to remain too long blotted, and to be restored with honour to the arms of my friends and of my country. I say a proper judicatory, in contra-distinction to that before which the matter has been so long hung up, and which, from the proceedings, seems to have considered itself as analogous to a grand-jury, and has strictly followed the ill example of grand juries in latter times; I mean their calling for, or admitting, such evidence only as might serve to criminate, not considering how much the bare accusation affects the reputation, or, where the person has any sensibility, how deeply it cuts into the soul.

The instances of discrimination are so many, it is painful to mention them. But has it not taken place in the cases of General Sullivan, General Wayne, General Maxwell, General Putnam, and others? They have all been accused of misconduct, but General Schuyler and myself only have been forced to languish, in torpid inactivity, under the weight of the accusation.

The charges against me are of a very general and criminal nature, and have been stated by a Committee of Congress, upon the evidence collected by another Committee, appointed for the purpose of collecting evidence against the General Officers, who were in the northern department when Ticonderoga and Mount Independence were evacuated. Sir, all this formal

interference of Congress, or Committees of Congress, gives the matter an air of vast importance, and impresses on the public an idea of great criminality. It will, therefore, be necessary for me, whilst I defend myself against the charges directly, to take some notice of the reasonings of the Committee, and to shew in some instances their fallacy, in others their futility. For which reason I beg leave to read the report.

THE Committee, appointed to examine the evidence collected, and state charges, against the General Officers, who were in the northern department when Ticonderoga and Mount Independence were evacuated, Report,

That, having examined the papers to them committed, relative to the subject in question, they find

That, on or about the 13th day of June, 1777, Major General St. Clair took upon him the command at Ticonderoga and Mount Independence, and that those posts were, by his orders, evacuated to the enemy on the 6th day of July following.

That, by Deputy Commissary Avery's return of provision at Ticonderoga on the 25th of May, 1777, there were at that post 1400 barrels of flour, and 661 barrels of beef; which he stated as sufficient provision in flour for 4000 men during 66 days, and in beef for 75 days.

That, by Deputy Commissary Yancey's return of provision remaining on hand at Ticonderoga the 20th of June, 1777, there were 2015 barrels of flour, 195 barrels of beef, 784 barrels of pork, and 48 barrels of hard bread, besides pease, Indian meal, sugar, coffee, chocolate, molasses, wine, rum, salt, candles and hog's-lard.

That, on or about the 5th of July, 1777, as appears by Jesse Leavenworth's affidavit, a considerable number of fat cattle arrived at Ticonderoga.

That, by the general return of the troops on the 14th of June, 1777, present at Ticonderoga and on com-

mand, and which we suppose to be in the *environs*, there were

Commissioned Officers, - - -	273
Staff, - - - - - -	45
Non commissioned, - - - -	398
Rank and File, - - - -	3346
Commissioned Officers of Artillery, -	23
Staff, - - - - - -	4
Non commissioned, - - - -	80
Matrosses, - - - - -	117
	4286
Sick, - - - - - -	517
Total Effectives, including Officers,	3769

That, by the general returns of troops on the 28th of June, 1777, present at Ticonderoga and on command, and which we suppose to be in the *environs*, there were

Commissioned Officers, - - -	284
Staff, - - - - - -	50
Non commissioned, - - - -	413
Rank and File, - - - -	3559
Commissioned Officers of Artillery, -	32
Staff, - - - - - -	2
Non commissioned, - - - -	99
Matrosses, - - - - -	300
	4739
Sick, - - - - - -	556
Total Effectives, including Officers,	4183

That General St. Clair informed the Council of War held on the 5th of July, 1777, that 900 militia had joined him. That Jesse Leavenworth swears they

were of the Grants; and General St. Clair, in his letter to Congress, July 14, says they joined on the 5th. That the whole force in Ticonderoga, on the 5th of July, 1777, was 5639 men and officers, of which a number, not exceeding 639, could be considered as sick.

That, on the 13th of June, 1777, General St. Clair wrote to General Schuyler, the commanding officer in the department, that two men from Canada, taken prisoners, informed him that the British army in Canada were assembling, to the amount of about 10,000 men, as fast as possible, to cross the Lake, and attack Ticonderoga; and that he might depend upon it their fleet would appear in a fortnight at farthest.

That, on the 18th of June, General St. Clair wrote to General Schuyler, that four of the enemy's vessels were lying within a mile of the hither side of *Split-Rock;* that on the day before the enemy's Indians had taken two prisoners, who had strolled from his camp unarmed; and that he thought the enemy's main army was not far off.

That, on the 24th of June, General St. Clair wrote to General Schuyler, that the evening before he had received information, from a scouting party, the enemy were encamped on both sides of Gilliland's Creek, and that they were very numerous.

That, on the 25th of June, General St. Clair wrote to Congress, that he was not able to discover whether the enemy were in force or not; that seven of their vessels arrived at Crown-Point the preceding evening; and that others of their fleet were four or five miles lower down.

That, on the 30th of June, General St. Clair wrote to General Schuyler, that the enemy having advanced to the Three Mile Point, the alarm was given; that his people were in the best disposition possible; and that he had no doubt of giving a good account of the enemy, should they think proper to attack him.

That it does not appear the enemy did attack General St. Clair; yet, nevertheless, on the 5th of July he

called a Council of War, and desired their opinion, whether he should wait the attack at the Ticonderoga lines, or whether the whole of the troops should be drawn over to Mount Independence, the more effectually to provide for the defence of that post. Whereupon the Council were unanimously of opinion, that it was impossible, with their force (then stated by General St. Clair to be 2089 rank and file, besides the corps of artillery, 900 militia, and 124 artificers unarmed) to defend Ticonderoga and Mount Independence, and that the troops, cannon and stores should be removed that night, if possible to Mount Independence. That the General also put another question, whether, after a retreat to Mount Independence, they should be in a situation to defend that post? or, in case it could not be defended, whether a retreat into the country would be practicable? Upon these points, the Council unanimously concluded that a retreat ought to be undertaken as soon as possible, and that they should be very fortunate if it could be effected. And in pursuance of this determination Ticonderoga and Mount Independence were abandoned between two and three o'clock in the morning of the 6th of July, 1777, General St. Clair having, as appears by Jesse Leavenworth's affidavit, eight days before sent his son and baggage from Ticonderoga to Fort George.

That General St. Clair, in his letter to the Hon. John Jay, Esq; dated July 25, 1777, writing of the evacuation of Ticonderoga and Mount Independence, says, That had the opinion of the Council been contrary to what it was, it (meaning the evacuation) would nevertheless have taken place, as he knew it to be impossible to defend the posts with their numbers.

That the sick at Ticonderoga, and the public stores of ammunition, cannon, provision and cloathing, were left behind, or lost upon the precipitate retreat of the 6th of July.

That on the 20th of June, 1777, a Council of War was held at Ticonderoga, Generals Schuyler and St.

Clair being present, wherein it was determined, that Ticonderoga and Mount Independence ought to be maintained as long as possible, consistent with the safety of the troops and *stores;* that, if either of those posts must be evacuated, the former should be evacuated; that the fortifications and lines on Mount Independence were very deficient; and that repairing the old and adding new works ought to claim immediate attention.

That, by Jesse Leavenworth's affidavit, it appears there was not a stroke struck to fortify Mount Independence; that no parties were sent to annoy the enemy, though the troops were healthy, courageous, and desirous to improve every advantage against them.

That, by the determination of the Council of War on the 5th of July, it appears the enemy had then nothing more to do to compleat their investiture of Ticonderoga and Mount Independence, than to occupy the neck of land, a space of three quarters of a mile between the Lake and the East Creek, and to possess themselves of the Narrows between them and Skeensborough.

That, by General St. Clair's orderly book, it appears, that on the 15th of June orders were issued for the following guards:

	Cap.	Sub.	Ser.	D. & F.	Cor.	Privates.
Main Guard,	1	2	2	2	2	42
Jersey Redoubt,	0	1	1	0	2	30
French Line Ditto,	0	1	1	0	2	30
Head-Quarters,	0	0	1	0	2	18
Quarter-Master,	0	0	0	0	1	8
Total,	1	4	5	2	9	128

A picket guard, of 1 Captain, 3 Subalterns, 3 Serjeants, 3 Corporals, and 50 Privates, posted to the right of the French lines.

For fatigue, 3 Captains, 10 Subalterns, 10 Serjeants, 5 Drums and Fifes, 326 Rank and File. The

whole to continue till farther orders. Total privates for guards, 178; for fatigue, 326.

That, on the 23d of June,. the abovementioned guards were reduced from 178 to 95 men; the fatigue party from 326 to 250 men; and 78 privates, under proper officers, were ordered for the detail of guards at Mount Independence; all to continue till further orders.

That the 26th of June was the first day the troops were drawn up at their alarm-posts, ordered to discharge their loaded pieces, and to clean them; and it was but on this day that a signal was given in orders, in case of an attack at the French lines, or at Mount Independence.

That, on the 29th of June, it was ordered that a scout, consisting of a subaltern, a serjeant, and twenty privates, should be sent out every morning, one hour before gun-fire; the fatigue party being then increased to 310 privates, the other guards continuing as before, 173 privates, without any addition till the evacuation of the posts.

Upon which state of evidence, your Committee, in order to ground their charges against Major General St. Clair, beg leave to remark;

First. That, on the 13th of June, General St. Clair was possessed of an information, from two prisoners taken in Canada, that the British forces, amounting to about 10,000 men, were proceeding as fast as possible against him, and that he might expect their arrival in three weeks at farthest. That as, on the 18th of June, four of the enemy's vessels were lying on the hither side of Split-Rock, and on the 24th seven of them were at Crown Point, and others four or five miles lower down, their forces then encamped on both sides of Gilliland's Creek, and he was informed by his scouts that they were very numerous; so from these circumstances it appears General St. Clair had substantial reason to confide in what the prisoners had told him relative to the intentions and

strength of the enemy, and that he ought at this time to have taken his final resolution, either to stand an attack, or to retreat with his stores, the preservation of which was a principal object in the determinations of the Council of War on the 20th of June. Therefore it appears that General St. Clair's neglecting to form his decisive opinion at this time, or at a later day, so as to allow him a sufficient opportunity to retreat with his troops, sick, ammunition, cannon, provision and cloathing, and to deprive the enemy of shelter at Ticonderoga, was a neglect of duty.

Second. That General St. Clair, on the 24th of June, was informed by his scouts the enemy were very numerous, and yet, nevertheless, on the next day he wrote to Congress, that he was not able to discover whether the enemy were in force or not.

Third. That if General St. Clair found small scouts could not acquire a knowledge whether the enemy were in force or not, it was his duty in due time to have sent out reconnoitring parties, in such force as might have assured him whether or not the enemy were in strength, this being a most important point, as upon this he was to regulate his motions; and therefore his failure in sending out such parties in due time was a neglect of duty.

Fourth. That as Jesse Leavenworth swears General St. Clair did not annoy the enemy in their advance against, and investiture of, the posts under his care, although the troops were healthy, courageous, and desirous of action, it appears the General did not to the utmost of his power oppose the operations of the enemy; and therefore that he is liable to the charge of neglect of duty, of cowardice, or of treachery, or of incapacity as a General.

Fifth. That as it was determined in the Council of War on the 20th of June, approved by General Schuyler, the commanding officer in the department, that the repairing the old and adding new works on Mount Independence ought to claim immediate atten-

tion; and Jesse Leavenworth swears not a stroke was struck for those purposes; and by the orderly book it appears the fatigue party was decreased in number, and so continued at a time when it should have been abundantly increased; so on these points the General is liable to be charged with a neglect of duty, amounting to a breach of orders, and with treachery.

Sixth. That as, on the 25th of May, the Deputy Commissary rated that 1400 barrels of flour would, at an allowance of one pound each man *per diem*, serve 4000 men 66 days, and that 661 barrels of beef would serve the same number of men 75 days; and supposing that, from the twentieth of June to the fourth of July inclusive, there were in Ticonderoga and Mount Independence 4739 men, and there does not appear to have been at any time between those periods a greater number; so, estimating the consumption of 4739 men, from the twentieth of June to the fourth of July inclusive, upon the 2015 barrels of flour, 195 barrels of beef, and 784 barrels of pork, on the twentieth of June returned by Deputy Commissary Yancey as then actually remaining on hand, there did on the fourth of July remain, or ought, if provisions had been regularly and properly issued, to be then remaining 1625 barrels of flour, 3 barrels of beef, and 784 barrels of pork; a magazine of provisions sufficient to afford to the army on the 5th of July, amounting, by the arrival of the militia of the Grants, to 5639 men of all ranks, *full allowance* of provision in flour for 52 days, and in beef and pork for 32 days, exclusive of the considerable number of fat cattle that arrived at Ticonderoga on the fifth of July, the teams of oxen necessarily attending the post, and other stores specified in the Commissary's return on the twentieth of June, and even supposing, as may not reasonably be done, that no supply of flour had arrived after that day. And as this calculation has been liberally made, upon the quantity of provision actually in Ticonderoga on the twentieth of June, for the expenditure of which Gen-

eral St. Clair, as commander at the post, ought to be held responsible; therefore it clearly appears Ticonderoga and Mount Independence were not abandoned upon a just principle of a want of provision.

Seventh. That as General St. Clair informed the Hon. Mr. Jay, that at the time of holding the Council of War on the 5th of July, he knew it to be impossible to defend the posts with his numbers, it is natural to conclude he was decided upon this point as early as the 29th of June, the day that he sent his son and private effects from Ticonderoga to Fort-George, as a place of safety: That being decided upon this point, it was his duty then to have taken as effectual measures for the preservation of the public property, at least equally with his own, claiming his earliest attention: That on the 30th of June, the enemy being advanced against him so near as the Three Mile Point, it is incredible that he did not then know that they were in force: That it was his duty, *at that point of time*, to have finally determined either to abide the operations of the enemy, or to retire: That if the last resolution was taken, and, from his sending off his son and baggage the day before, there is the strongest presumption that this resolution was *then* fully taken, it was his duty then to have proceeded to send off the public stores, to destroy the works, and to evacuate the posts without losing a moment of time: And that by deferring to take any measures to retire till the last moment when he could possibly retreat even with his effective troops, a moment when the sick, ammunition, cannon, provision and cloathing of the army must be abandoned and lost, besides the lives of many men in effecting a retreat from before an enemy immediately upon him, General St. Clair appears chargeable with inattention to the progress of the enemy, with treachery, or with incapacity as a General, and with shamefully abandoning the posts of Ticonderoga and Mount Independence, in his charge. Nor can the proving, as General St. Clair wishes to do, that the works of

Ticonderoga and Mount Independence were too extensive, and that the troops were very badly armed, if such things can be proved, fail of placing General St. Clair in a more reprehensible point of view, as the weakness of his defence being more obvious, his retreat should have been earlier determined upon and made.

Your Committee, having thus stated the points principally resulting from the evidence collected against General St. Clair, recommend that a general court-martial be ordered to sit for the trial of Major General St. Clair, for the loss of Ticonderoga and Mount Independence, with the public stores; and that he be charged

First. With Neglect of Duty; under the 5th article of the 18th section of the rules and articles of war——and that the charge be founded upon the first, third, fourth and fifth Remarks, respectively.

Second. With Cowardice, with Treachery, with Incapacity as a General, respectively; under the 5th article of the 18th section of the rules and articles of war——and that the charge be founded upon the fourth remark.

Third. With Treachery; under the 5th article of the 18th section of the rules and articles of war——and that the charge be founded upon the fifth remark.

Fourth. With Inattention to the Progress of the enemy, with Treachery, with Incapacity as a General, respectively; under the 5th article of the 18th section of the rules and articles of war——and that the charge be founded upon the seventh remark.

Fifth. With shamefully abandoning the Posts of Ticonderoga and Mount Independence, in his charge; under the 12th article of the 13th section of the rules and articles of war——and that the charge be founded upon the seventh remark.

Finally, upon the case of Major General St. Clair, your Committee recommend that authenticated copies of the returns, letters, and determinations of courts-

martial, referred to, be transmitted to the Judge-Advocate-General; that Elisha Avery, James Yancey, Richard Varrick, Jesse Leavenworth, and the Colonels commanding the two battalions of Massachusetts militia, whose time of service was nearly expired at the evacuation of Ticonderoga, be summoned to give evidence at the trial of Major General St. Clair; and that he be furnished with a copy of the remarks and charges against him.

The first observation that naturally offers is, that the charges which have been exhibited to this Court have all been founded upon the *ex parte* affidavit of a Mr. Leavenworth, which (in most instances) he has contradicted in open Court, and consequently is entitled to no degree of credit, and upon my own letters to Congress and to General Schuyler, the Officer who commanded in chief in the northern department. It is singular, however, that charges of so high a nature against an officer of my rank should be attempted to be supported (for supported I trust they are not) by no other living witness than Mr. Leavenworth, a private man! a follower of the army! in some of the lowest and vilest occupations! who, if he had had capacity to judge, could not possibly have had proper information; that not an officer, of any rank whatsoever, has been called upon; and yet, had treachery, had neglect of duty, been committed,—had I been inattentive to the progress of the enemy,—had the posts in my charge been shamefully abandoned,—or had I been guilty of cowardice,—they could not have escaped their notice altogether; nay, it was by them only they could probably have been discovered. But this by the bye. Previous to any remarks upon, or application of, the testimony, I beg leave to inform the Court, that, before I left Philadelphia to take upon me the command of Ticonderoga, Congress had received information, which they credited, that the principal part of the enemy's troops in Canada were ordered

round by St. Lawrence to join General Howe; that no serious attempt would be made upon Ticonderoga; at most, it would be a diversion only. This was communicated to me by Mr. Hancock, then President, and I have his authority to mention it to this Court. This circumstance will serve as a key to many of my letters, and will account for my doubts about some intelligence I received after my arrival at Ticonderoga. And it appears from General Poor's testimony, that General Gates had likewise, from them, received the same account.

The first charge is neglect of duty, founded upon the first, third, fourth and fifth remarks, respectively.

The first remark is, "that on the 13th of June I was possessed of an information, from two prisoners taken in Canada, that the British forces, amounting to about 10,000 men, were proceeding as fast as possible against me, and that I might expect their arrival in three weeks at farthest; that as, on the 18th of June, four of the enemy's vessels were lying on the hither side of Split Rock, and, on the 24th, seven of them were at Crown-Point, and others four or five miles lower down, their forces then encamped on both sides Gilliland's Creek, and that I was informed by my scouts they were very numerous; so, from these circumstances, it appears I had substantial reason to confide in what the prisoners had told me relative to the intentions and strength of the enemy, and that I ought at this time to have taken my final resolution either to stand an attack, or to retreat with my stores, the preservation of which was a principal object in the determinations of the Council of War on the 20th; therefore it appears, that neglecting to form my decisive opinion at this time, or at a later day, so as to allow myself a sufficient opportunity to retreat with my troops, sick, ammunition, cannon, provision and cloathing, and to deprive the enemy of shelter at Ticonderoga, was a neglect of duty."

It is true, that on the 13th of June I was possessed

of an information, from two prisoners, that the British army amounted to about 10,000 men, and that they were making every preparation to cross the Lake, to attack my posts; but it is also true, that I considered these persons as spies; that their information was contradicted by two Frenchmen, who had been sent into Canada by General Gates, for the express purpose of gaining intelligence of the enemy's designs; that the information of these Frenchmen arrived at the same time, and was transmitted by the same conveyance to General Schuyler; as appears from my letter to him of June 13th.

The information, Sir, of prisoners is generally doubtful; but that of persons considered as spies must always be suspected. I would therefore have been justifiable in not giving them credit, if I had not received contradictory intelligence. But when the Court consider the opinion of Congress above-mentioned, and that the persons actually were spies (the letter from Mr. Livius to General Sullivan, that has been published by the General, having been found upon one of them) and that their intelligence was contradicted by persons of credit, they will think the conclusion I drew the natural and proper one—that they were sent to deceive us, and were unworthy of belief. They will think that the enemy's advancing their vessels to Crown-Point and Split-Rock, and forming an encampment at Gilliland's Creek, as they did on the 18th and 24th of June (that place being at a distance, out of the reach of our parties, but not out of the way of observation) thereby to induce the division of our troops, to reinforce the places on which they had no design, and to lessen the opposition where their army was to act effectually, was the very thing they ought to have done; and we all know the appearance of a great encampment can be made with a very few troops. And this sentiment was fortified by the position of their camp, which was a sandy beach upon the shore of the Lake, where the creek falls into it, forty-two or three

miles distant from Ticonderoga, as has been proven by General Wilkinson, Major Dunn, and others, with a rough, broken, woody country betwixt them.

But it seems I ought then, or at a later day, to have taken my decisive resolution to retreat, saving to myself a sufficient opportunity to bring off my troops, and every thing that was at the posts, and to deprive the enemy of shelter at Ticonderoga, and that the not doing so was a neglect of duty.

I suspect, Sir, the Committee, who formed these charges, had no idea of the nature of a subordinate command. They would otherwise have known, that I had no power to form or execute any such resolution, and that my justification for evacuating the posts at all must depend upon the necessity of the case. I did what my duty required me. I gave the earliest notice to the Commanding Officer of the department, and stood ready to execute his commands. But I am perswaded that, had it been in my power to have taken my final resolution then, and upon the intelligence I had received I had abandoned the posts, altho' every thing had been saved which has since been lost, the charges of treachery and cowardice would have been rung much louder, and pressed home more strongly, and with more virulence, if possible, than in the present case. I should have heard, that no decisive operation should be founded on the vague report of prisoners or deserters, often ignorant, almost always ill informed; but that to abandon a post on the information of persons I suspected to be, and actually were, the enemy's spies, or from the view of an encampment upwards of forty miles off, and that only seen across a lake six or eight miles broad, could proceed from no other than one of those sources, or from perfect stupidity; and this Court, from whom I expect a very different decision, would have joined in that opinion, and condemned me to the punishment I had justly merited. But, besides all this, if the Council of War was to guide, it was out of my power to take any such

measure; for the resolution of the Council is, that both Ticonderoga and Mount Independence are to be held as long as they can be, consistent with the safety of the troops and stores. When the safety of the troops and stores became doubtful, Ticonderoga, not Mount Independence, was to be evacuated.

The second article upon which the charge of neglect of duty is founded is, "That if I found small scouts could not acquire a knowledge whether the enemy were in force or not, it was my duty, in due time, to have sent out reconnoitring parties, in such force as might have assured me whether or not the enemy were in strength, and that this was not done."

Had not the Committee been totally ignorant of the nature of the country in which these parties were to act—had they given any attention to the returns of my army, which were before them, or credit to my letters to General Schuyler, of which they had the perusal, this article would never have made its appearance. Had it ever occurred to them that the enemy proceeded by water, and that the only debarkation we hear of was at Gilliland's Creek, forty miles and upwards from Ticonderoga, and that they proceeded from thence by water again, we should not have heard this story of reconnoitering parties, of which, I am morally certain they themselves had no determinate idea. My whole army would not have formed one party such as they seem to think ought to have been sent out frequently. I have proven that small parties were sent out, not only frequently but constantly; and altho' they were but small parties, they were as strong as the state of my garrison, and the works in hand, would allow. It is true, indeed, I obtained by them no certain intelligence of the enemy's force until they landed at Three Mile Point, nor was it possible before; they possessed neither the gifts of divination, nor walking upon the water; but they could give me information if any part of the enemy's army were advancing by land, and this was all I could expect from

them, except that, in that case, they might have brought off some prisoners.

The returns prove the strength of my army—the orderly book the daily guards—and I have proven, by General Poor, Colonel Baldwin, Colonel Koseiuszko, General Wilkinson, and almost every witness, the numerous fatigue parties and pickets. I leave it to the Court to judge if larger parties could have been spared to make discoveries. But supposing, for argument sake, that my army would have afforded stronger reconnoitring parties, I contend that, until the enemy were landed, they would have been useless, and afterwards highly improper; and that the sending such would have argued great want of Judgment. It would have been sending two or three hundred men (and that number would perhaps have been thought a pretty good reconnoitring party) to certain destruction. They could not have marched thro' thick woods and rank herbage without being discovered, if the enemy's parties were the least vigilant. If they were attacked at a distance, as they could not be supported, they must inevitably have fallen into the enemy's hands; if attacked within supporting distance, they must still have fallen, or a general action been brought on; for they could no otherwise have been supported, but by marching out to sustain them, and then all the expence and time that been laid out on the fortifications were thrown away. A General, entrusted with the defence of a post, who reduces himself to the necessity of fighting the enemy to support his detachments, or who, by making large detachments and losing them, puts it out of his own power to maintain his post, certainly discovers very little knowledge, and would justly be the object of censure at least, if not of punishment. Had such detachments been made from my army, one or other of these consequences must have followed; they must have been taken, or I must have risked an action to bring them off: But I had not a force sufficient for the defence of my posts, much less

to cope with the enemy in the field, therefore no such detachments, as should lay me under the necessity of attempting it, or be of any great moment if a misfortune happened to them, were made. But further, as very small parties, three men for example, can approach an enemy without much danger of being discovered, which large parties cannot, and that these small parties, from that circumstance, have a better chance to make prisoners, to take off a centinel for example, to which they are fully adequate, and that the intelligence to be obtained from reconnoitring parties must depend, in a great measure, upon the prisoners they make, it follows that small parties are the most proper, and fully answer every purpose of gaining intelligence that can be derived from the larger, without being subject to the same dangers. It likewise follows, that there was no neglect of duty in this instance, but, on the contrary, that the most proper methods for obtaining certain intelligence of the motions and force of the enemy were taken and pursued.

The charge of neglect of duty is further grounded upon the affidavit of Mr. Leavenworth, who, the Committee say, swears that the enemy were not annoyed by me in their advance against, and investiture of, the posts under my care, though the troops were healthy, courageous, and desirous of action, and therefore I am liable to the charges of neglect of duty, of cowardice, or of treachery, or of incapacity as a General. The Committee seem to be in doubt on which of the four to fix, it is one or t'other, but, to make sure of the matter, and swell the black list, they have directed that I be prosecuted upon each. It has been proven by Dr. Brown and Dr. Townshend, the hospital surgeons, that the troops were not healthy, and their testimony will have weight. The Court will please to observe the contradiction betwixt what the Committee say Mr. Leavenworth swore, and what he actually swears before this Court; here he swears that he has seen parties go out of about twenty men, and that he

once heard of a scalp being brought in; there he swore that they were not annoyed at all; perhaps he thought killing and scalping the savages employed by the enemy no annoyance! But it is needless to dwell upon this man's testimony, as, from his station, he could not know much, and, from his observation, he actually knows very little.

It is in proof to the Court, by a number of witnesses, that parties were constantly out, and that they frequently were engaged with the enemy; and, by Colonel Stevens, that every annoyance was given to the enemy by the artillery, from every quarter, from the first of their appearance until the evacuation. But if the Committee meant that no large detachments were sent to annoy the enemy, it is granted; and the reasons that have been already given for not sending out large reconnoitring parties apply so directly, it would be trespassing on the patience of the Court to repeat them.

The last ground for the charge of neglect of duty is, "that, notwithstanding it had been determined in a Council of War on the 20th of June, that the repairing the old works, and adding new ones on Mount Independence ought to claim immediate attention, Mr. Leavenworth swears not a stroke was struck for these purposes." Here Mr. Leavenworth gives the Committee the slip again; for he swears before the Court, not that there was not a stroke struck for these purposes, but that he has heard there were many strokes struck; he has heard of what he calls some small works flung up on the south end of Mount Independence; and it appears by the map, and explanation by Colonel Koseiuszko, these were lines and three redoubts, for 1500 men at least. But, forsooth, there were none erected where he expected, and *he* did not think the works suitable to cover the men. He acknowledges he has seen parties of axe-men sent from the parade. He could not suppose they were sent to strike no strokes; and it is scarce conceivable that a person, who on other occasions, as much out of his

way, was so very inquisitive, should not have had the curiosity to ask some one what those men were going to do with their axes, if his occupation as a suttler had not given him an opportunity to know it.

These palpable contradictions betwixt the evidence this man has given to the Committee, and what he has declared to the Court, will, I hope, put a stop to all *ex parte* enquiries for the future; in which case, I shall the less regret the injuries I have myself sustained from them. But the Committee go on, and say, in further support of the charge, "that from the orderly book it appears the fatigue party was decreased, and continued so at a time when it ought to have been abundantly increased." It is true the parties furnished by the daily details were decreased; but I have proven, by a cloud of witnesses, that circumstance notwithstanding, that the fatigue parties were abundantly increased, and continued so; nay, that almost my whole army were constantly employed in repairing the old and constituting new works; and that, so far from being guilty of a neglect of duty, amounting to a breach of orders, in that respect, I did everything in my power to put the posts in a proper posture of defence.

The second charge is cowardice, treachery, and incapacity as a General, directed to be tried upon the 5th article of the 18th section of the Rules and Articles of War, and founded on the fourth remark of the Committee.

By Mr. Leavenworth's testimony again are these horrid accusations to be supported; not in a direct manner, but by inference and deduction from that part of it, which the Committee in the above remark say he gave them, viz. "that the enemy were not annoyed in the advance to, and investiture of, the posts;" but which he, in part, has contradicted here, as I observed before, and which, by Colonel Stevens, General Wilkinson, Colonel Livingston, Major Dunn, and others, I have proven to be false. The inferences of conse-

quence are false likewise, and of course the charges groundless. But I believe it is the first instance where charges of a capital nature have been brought against an officer by deduction, without a shadow of proof to support them; and cowardice and treachery are capital crimes, although the Committee have directed them to be tried by an Article of War to which no capital crime whatever can be referred, having been expressly provided for crimes not capital. I wave, however, any advantage that might be taken of this. My reputation, or my safety, shall never depend upon the blunders of any sett of men who may think proper to accuse me; but, when proof is wanting, candour will never attribute actions to the worst cause from which they could possibly flow; good-nature will ever ascribe them to the best. Hitherto, however, I have experienced very little of either. But my birth, Sir, my education, my connections, both in this country and in Britain, my station in life, my children (if to these had not been added the habitudes of early life) as they were the best pledges, so they should have secured me from the imputation of those most shameful vices, from which the meanest of the people are generally free. But my reputation rests not on that bottom. I am happy in the general good opinion of the army, which is never bestowed upon cowards, nor has all the calumny that I have been loaded with shaken me a single friend. The Court have the fullest evidence, that on every occasion I have given demonstrations of an active, as well as passive, courage; my conduct in that respect has been uniform on all occasions; and this is confirmed by the concurring testimony of many of the principal officers of the army, with some of whom I have been, personally, in almost every action that has happened during the war. From thence they must conclude, that, whatever might have been the motives for my evacuating Ticonderoga, it could not have been owing to cowardice, and that the charge is false, malicious and scandalous.

Treachery, Sir, is a crime it is impossible to prove, positively, not to have been committed. It is therefore necessary, in order to fix it, that some actual commission should be proven; but as this has not been attempted, it is enough alone to overthrow the charge. But I beg leave to inform the Court, that when Congress appointed me to the command of a regiment, I considered it as the call of my country, that could admit of no refusal. I reflected that some knowledge acquired by study, and the service of the whole last war (during which I was in almost every siege and every action of consequence) put me in a situation to be of some use to our army in its infant state. My country, I thought, had a right to my services, and to every advantage that could be derived from my experience. I therefore, without hesitation, resigned an honourable and profitable employment I then held under the crown, to qualify myself for that offered to me by Congress, notwithstanding it was not of one half the yearly value. I quitted the sweets of a retirement I was fond of, the pleasures of domestic life, and the care of the education, and provision for a rising family, (both of which claimed my closest attention) for the toils, the hardships, and the extraordinary expences of war. Had this the appearance of treachery? And yet, for these, I have met with the ungracious return of those cruel accusations, though, surely, they were not the natural returns to such a conduct. What farther promotion Congress were pleased to confer upon me was totally unsolicited. I received it with gratitude, determined that my actions should be the best proof of the sense I had of the honour they had done me; nor have I been therein disappointed. My country now reaps the solid advantages of my conduct, whilst I am loaded with obloquy and abuse. I forgive it, however, but I can never forget that the channels of justice have been shut against me, and that for thirteen long, long months, I have been hung up to be stung by the envenomed

tongue of malice, and pointed at by the finger of folly. But the sentence of this Court will, I trust, place me once more in that honourable point of view, from which I have not deserved to be removed, having been careful to observe that maxim of Horace, *Nil conscire sibi, nulla pallescere culpa.*

How incapacity came to be a crime, unless in those who made the appointments (for I must repeat it, no office I have ever held, or now hold, under Congress, was ever solicited by me) or by what Article of War it is triable, I own I do not know. But this charge, with the others, has been made upon a supposition that I did not do every thing in my power to oppose the operations of the enemy in their advance against, and investiture of, the posts in my charge; but it is in full proof to the Court that every thing was done, which prudence dictated, and circumstances would allow. It follows, that this is equally groundless with the others.

The third charge is treachery again, under the same Article of War, to which, as I observed before, it cannot be referred, and grounded upon the fifth remark of the Committee, which is, "that as it had been determined in a Council of War on the 20th of June, that the repairing the old and adding new works on Mount Independence claimed immediate attention, and Jesse Leavenworth swears not a stroke was struck for these purposes; and by the orderly book it appears the fatigue party was decreased in number, and so continued, at a time when it should have been abundantly increased, I am liable to be charged with treachery." I have already so fully refuted these matters in the charge for neglect of duty, which is founded on the same allegations, that I think it unnecessary to take up the time of the Court with a repetition of the same arguments. But as it may, perhaps, appear odd, that the number of men actually employed on these duties differs so widely from the orderly book, I will here, once for all, account for it.

I never approved of putting all orders into the book. Accidents frequently happen to the copies; deserters carry them off to the enemy, who thereby become perfectly acquainted with every thing you are doing; to prevent which, as our works were so very incompleat, a great many of my orders were verbal. Yet I dare say, had the Committee attended to it, they would have found in the orderly book frequent orders for whole brigades (besides the daily details) to parade at certain hours, and take their orders from their respective Brigadiers; and had they called upon any officer of the army, they would have been informed these brigades were sent upon fatigue, repairing the old and constructing new works, which has been proven to the Court in the fullest manner.

The fourth charge is, inattention to the progress of the enemy, treachery, and incapacity as a General again, founded on the seventh remark of the Committee; which is, "that as General St. Clair informed the Honourable Mr. Jay, that, at the time of holding the Council of War on the 5th of July, he knew it to be impossible to defend the posts with his numbers, it is natural to conclude he was decided upon this point as early as the 29th of June, the day that he sent his son and private effects from Ticonderoga to Fort George, as a place of safety. That, being decided upon this point, it was his duty then to have taken as effectual measures for the preservation of the public property, at least equally with his own, claiming his earliest attention. That on the 30th of June, the enemy being advanced to Three Mile Point, it is incredible that he did not then know they were in force. That it was his duty, *at that point of time*, to have finally determined to abide the operations of the enemy, or to retire. That if the last resolution was taken, and, from the sending off his son and baggage the day before, there is the strongest presumption that this resolution was *then* fully taken, it was his duty then to have proceeded to have sent off the

public stores, to destroy the works, and to evacuate the posts without losing a moment of time; and that by deferring to retire till the last moment when he could possibly retreat even with his effective troops, a moment when the sick, ammunition, cannon, provision and cloathing of the army must be lost, besides the lives of many men in effecting a retreat from before an enemy immediately upon him, he appears to be chargeable with inattention to the progress of the enemy, with treachery, or with incapacity as a General." They appear to be again uncertain upon which charge to fix; but, to make sure work of it, direct, as in the former case, that I be prosecuted for each, and upon the beforementioned Article of War, which certainly cannot be applied to treachery. But let us examine what all this amounts to. The Committee say that because I wrote to Mr. Jay, that on the 5th of July I knew it to be impossible to defend the posts with my numbers, it is natural to conclude that I knew it to be impossible to defend them with my numbers so early as the 29th of June; for that they must mean (if they mean any thing) by being "decided upon this point." But this is by no means the natural conclusion; the natural and candid conclusion is, that circumstances might have changed betwixt these periods, and matters have come to my knowledge on or before the 5th of July, of which I was ignorant on the 29th of June, and which would fully justify a change of measures. But the reason they conclude in that manner is, that on that day I sent my son and private effects to Fort George, as a place of safety; and this, I find by a former part of their report, is also the information of Mr. Leavenworth upon oath. Now it happens that, although I sent my son on that day to Fort George, I sent no part of my baggage there then, or at any other time; and this very respectable witness, Mr. Leavenworth himself, swears that I did not, to his knowledge. The account he has given of Head-Quarters being stripped, as he calls it, is so

absurd, that was there no other testimony to disprove it, it would destroy itself. But his testimony before the Court contradicts, in almost every instance, that the Committee say he has given to them. My son was a boy betwixt eleven and twelve years of age, who, on the information I have mentioned to have received from the President of Congress, that there was no probability of an active campaign, I had taken with me, that I might superintend his education. He remained with me at Ticonderoga until matters wore a gloomy aspect, and was then sent to Fort George, on his way to Albany, where he was put to school. In case of an attack, he would naturally have distressed me, and divided my attention; and this is the dreadful affair of sending my son, that has been so often repeated, and upon which so many base ungenerous comments have been made. I have proven beyond the possibility of a doubt, that I never sent away sixpence worth of my private effects, and that I took the most effectual measures for the preservation of the public property, great part of which was brought off, whilst my own was left a prey to the enemy. But it seems it is incredible that the enemy should be at the Three Mile Point, where some of their vessels arrived on the 30th of June, and that I should not *then* know whether they were in force or not. The Committee have again forgot that the enemy were water-borne, and that at this time they had not debarked. Had that occurred to them, they would not have thought the matter so very incredible. I believe they would have thought it very probable. But they seem to have viewed one side of the picture only. I have proven to the Court, that from the number of savages, who kept my parties at a distance from the shores of the Lake, it was impossible to obtain any satisfactory account of the enemy's numbers until they were landed, which they began to be on the 30th of June, and with so much caution, as appears by my letter of that date to Gen. Schuyler, that I had very good reason to

conclude they were not in force, and to exult in that consideration too, hoping for an opportunity not only to have served my country, but in some measure to have filled the expectations I knew the public had formed from me. The resolution to retire was therefore not "*then* fully taken." But what idea of military movements must these gentlemen have? who conclude that an enemy at three miles distance is not immediately upon you, or who imagine that works may be destroyed, and stores, ammunition and cannon, &c. removed, under the eye of a superior and collected force. Sir, had a retreat been attempted upon the enemy's landing at Three Mile Point, and the steps pursued which the Committee have enumerated above, it is impossible, in the nature of things, but the army must have been cut off, or fallen prisoners into their hands. But, by our putting a good face upon the matter, and shewing a determination to hold both posts, they were induced to divide their force, in order to invest us, and reduce us by the more slow, but certain, method of regular approach; not that this method was necessary to them, for they might most certainly have carried us by assault at any time: But assaults are frequently very bloody things! and on that circumstance I chiefly depended for rendering my small garrison serviceable to their country. I was in hopes the enemy would assault us, and some accounts that I had, that they were short of provisions, gave me some reason to expect it. I depended upon my troops—I was perswaded they were brave, and I believe they too had confidence in me. Every order and every advice I gave them pointed directly to that object—and I still believe that, had they attempted it, we should have given so good an account of them, that the conquest of Ticonderoga would have terminated the operations of that campaign—but conquered it would have been, after all our exertions. Every letter I have wrote holds up the same idea, and I always speak of an attack as contra-distinguished from a siege; and the

character of the General I was opposed to gave me reason to expect something by assault or surprize. I mentioned to Congress, so early as the 25th of June, the great deficiencies in troops and provision, and the probability of my being obliged from these circumstances to evacuate. The moment I was informed, with any tolerable degree of certainty, of their numbers, which I was not until the 3d of July from a prisoner and some deserters (their information was confirmed by a spy I sent into their camp the 3d and returned the 5th) and saw that they meant a regular siege, I was certain the defending the posts effectually was impossible. The moment, however, which I chose for the retreat, as it was the only one was ever in my power to chuse, so it was almost the only one after the enemy's landing at Three Mile Point in which the retreat could have been effected. I have fully proven that the sick were not left behind nor lost, that great part of the cannon, all the ammunition, the baggage and tents of the army, the hospital stores and part of the provision, were removed from Ticonderoga—as much as could at once have been removed at any prior time. Every boat was loaded. I think I have proven it to have been necessary and well conducted, and that the confusion, occasioned principally by the burning of General Fermoy's house, and his not circulating the orders to his brigade in proper time, was soon remedied.——I beg the Court to reflect one moment upon what was to be done, and how short the time to do it in!—for, though the evacuation was resolved on about three o'clock in the afternoon, we could not begin to carry it into execution until night came on, the enemy being in possession of a high hill on the opposite side of the Lake, from whence they could see our every movement,——that it was the season when the nights are at the very shortest, and that it was moreover moon-light,—and that the necessity of keeping the matter a secret, until the very moment of evacuation, prevented any preparatory

steps being taken to expedite the business, and they will be of the opinion that more was never done, *cæteris paribus*, in equal time; and if, in the different embarkations, some irregularities did happen, when every circumstance is taken in—the suddenness of the thing—the disposition every man would naturally have to save perhaps his little all—the confusion the night alone is apt to occasion—the distance every thing had to be carried, and their variety, the candid mind will be more apt to wonder that any order could be preserved, than that some irregularities supervened. On this occasion it would be great injustice not to acknowledge, that the officers were in general diligent and attentive, and the men silent and obedient to a wonder; the continental troops I mean; for the militia, Bellows's and Robeson's regiments excepted, held a very different conduct. Colonel Bellows exerted himself greatly in removing the cannon from the lines and embarking them, which he effected, notwithstanding some difficulties that, I have since heard, were thrown in his way by an officer of the artillery. I was in a very particular manner obliged to General Poor, Colonel Long, Colonel Hay, and Colonel Stevens, to whose pains and assiduity it was chiefly owing that so much of the public property was taken off. It is true, however, the greatest part of it fell afterwards into the enemy's hands at Skeensborough, but not from any fault of mine. That was the only place to which they could have been removed; and had not my march been delayed, as has been shewn, by Colonel Warner's unfortunately taking upon himself to judge of and disobey his orders, I should have arrived at Skeensborough time enough to have protected the stores, and probably to have cut off that party of the enemy which pursued them. I agree perfectly with the Committee, that the posts, as the proper number of men for their defence were not sent to them, should have been evacuated earlier. But I did my duty. I apprized both Congress and General Schuyler of my situation,

and the probable consequences; and from one or other of them, if it was thought proper to evacuate the posts, my orders were to come. From these circumstances, it appears that I have not been guilty of treachery or incapacity. But it is truly surprizing that gentlemen, who had the perusal of my letters to General Schuyler, should have alledged inattention to the progress of the enemy, as in every one of them, viz. those of the 13th, 18th, 24th, 25th, 26th, 28th and 30th of June, and 1st, 2d and 3d of July, I make particular mention of their progress, and the steps taken to obtain a knowledge of it.

The fifth and last charge is, "Shamefully abandoning the posts of Ticonderoga and Mount Independence, in my charge," and this is directed to be founded upon the seventh remark, which has just been under consideration. The punishment of this crime, Sir, is death, without alternative. No presumptive evidence, therefore, can be admitted, no construction can be allowed, to fix it; but the fact must be proven in the clearest and most positive manner. But in the remark of the Committee referred to, I do not find a single circumstance that relates to it, except a loose assertion, for which I am bold to say they had no warrant either from reason or evidence. It is this: "Nor can the proving, as General St. Clair wishes to do, that the works of Ticonderoga and Mount Independence were too extensive, and that the troops were very badly armed, if such things can be proved, fail of placing General St. Clair in a more reprehensible point of view; as, the weakness of his defence being more obvious, his retreat should have been earlier determined upon and made." I have proven by General Gates, General Schuyler, General Poor, and Colonels Baldwin and Koseiuszko, the engineers, and a number of other witnesses, that the works were much too extensive for my numbers; by General Gates, that the numbers were not one fourth of what he demanded, and Congress had voted, at a time he

did not expect the enemy would have come on with 10 or 11,000 men, and not much more than a fifth of what he would have demanded in that case, exclusive of the militia, which he had powers to call for, in any number he thought proper; by General Schuyler and General Poor, that they would at least have demanded 10,000 good troops; by Major Hull's certificate, and the returns of arms from the officers commanding regiments, that many of the men were very badly armed. And, with the Committee's good leave, although the weakness of my defence was certainly from these circumstances the more obvious, yet, as proper notice thereof was in due time given both to Congress and General Schuyler, neither of whom gave any directions about the matter, and I had no power of myself to order the evacuation until the last extremity, I cannot thereby be placed in a point of view reprehensible in any degree whatsoever. As the proof here fails entirely, the charge must fail with it. But, Sir, the posts were not shamefully abandoned. The retreat was undertaken upon the justest principles, and, I hope the Court will bear with me when I say, upon the most honourable and ingenuous motives; the measures to effect it were taken with judgment; the orders were pertinent and clear; and the whole, notwithstanding some cross accidents, which it was not possible to foresee, was conducted with a degree of art, that reflects some credit upon both the General and the troops. I need not tell this honourable Court that a retreat, with an inferior army, from before a superior one, is perhaps the most delicate and dangerous undertaking in the whole circle of military operations, and that it never will be effected without prudence, fortitude and secrecy. I hope I have satisfied the Court, that I could not order the evacuation until the last moment, when I saw no alternative betwixt that and the certain loss of the army. I think I have proven that that moment was arrived, as one day more would probably have

compleated the investment of the posts, and then it would have been impossible. I have proven that my motive was not to avoid the enemy, but to save the army, and by removing them to a place where reinforcements could reach them, to make them serve as the basis of a force sufficient to cover the country, and check the progress of the enemy; and this I did with the certainty of a loss of reputation, a price few people are willing to pay even for the prosperity of their country! I indeed expected it would be a temporary loss of reputation only, nor will it be more, though it has already been of much longer duration than I looked for; and I fear the so long delaying to afford me an opportunity to vindicate my character, is not very likely to induce others who may happen in like circumstances to make a similar sacrifice. My letter to Congress, of the 14th of July, proves, that I foresaw the events that would probably happen, and which must have had some effect upon my determinations.

Indeed, from the knowledge I had of the country through which General Burgoyne had to advance,—the difficulties I knew he would be put to to subsist his army,—and the contempt he would naturally have for an enemy, whose retreat I concluded he would ascribe to fear, I made no doubt but he would soon be so far engaged, as that it would be difficult for him either to advance or retreat. The event justified my conjecture, but attended with consequences beyond my most sanguine expectations. A fatal blow given to the power and insolence of Great-Britain, a whole army prisoners, and the reputation of the arms of America high in every civilized part of the world! But what would have been the consequences had not that step been taken, and my army had been cut to pieces or made prisoners? Disgrace would have been brought upon our arms and our counsels,—fear and dismay would have seized upon the inhabitants, from the false opinion that had been formed of the

strength of these posts,—wringing grief and moping melancholy would have filled the now chearful habitations of those whose dearest connections were in that army,—and a lawless host of ruffians, set loose from every social tie, would have roam'd at liberty through the defenceless country, whilst bands of savages would have carried havoc, devastation and terror before them! Great part of the state of New-York must have submitted to the conqueror, and in it he would have found the means to enable him to prosecute his success. He would have been able effectually to have co-operated with General Howe, and would probably have soon been in the same country with him—that country, where our illustrious General, with an inferior force, made so glorious a stand, but who must have been obliged to retire if both armies came upon him at once, or he might have been forced, perhaps, to a general and decisive action in unfavorable circumstances, whereby the hopes, the now well-founded hopes of America, of liberty, peace and safety, might have been cut off for ever. Every consideration serves to prove the propriety of the retreat, that I could not undertake it sooner, and that had it been delayed longer it had been delayed too long. But it may justly be matter of wonder why Congress, who, so early as the twenty-ninth of April, declared their opinion, as appears by the resolve of that date, which has been read, that unless certain measures were pursued by the eastern states for compleating and forwarding without delay the troops ordered for that service, the important posts of Ticonderoga and Mount Independence must inevitably be lost, and who must have known from the returns, if it can be supposed they knew through no other channel, that no such measures had been pursued, nor even any taken to replace the corps of militia whose times of service had expired, and had left the posts, it may be justly matter of wonder, I say, that they should not have ordered the evacuation, in proper time to have saved

every article of public property. It has been proved that my numbers were greatly inadequate to the defence of the posts. But I must acknowledge a mistake I made with respect to these numbers. At the Council of War held on the 5th of July, I stated them at 2089 rank and file, fit for duty; to which should have been added 457 of those returned on command, and who were within the garrison, which brings them up to 2546. I took the account from the general return, and did not recollect that the regiments had a custom of returning men on particular duties in camp as on command, nor was this noted at the foot of the general return. It was a mistake, but not such a one as would have made any alteration, had it not happened. It has been proven by General Schuyler, that, had the garrison held out, he could not have raised the siege, as he had not been able to collect a sufficient force, and that, if a sufficient force had been collected, the siege could not have been raised for want of ball. But, had the posts been evacuated sooner, I am perswaded there would have no little been said about the vast numbers of militia that would have come to my assistance, had the posts been held longer; and these reports would have been believed, and added no little to the opprobrium under which I should have lain. I am, however, of the same opinion with my late worthy friend Mr. Livingston, then a Member of Congress, who used to say—that, had I left Ticonderoga one week sooner, I should certainly have been hanged, and probably without the ceremony of a court-martial. But, Sir, if it is shameful for an inferior army to retreat before a superior one, we must begin and unlearn what we have been spending years in reading to acquire; and history, instead of being a faithful guide to the unexperienced, has been hanging out false lights for many centuries, to mislead the unwary traveller. According to this doctrine, some of the most famous actions of antiquity, and which we have been taught to consider as master-

pieces of skill, were shameful retreats, and founded in cowardice, treachery or incapacity. The famous retreat of Brasidas, with his Lacedemonians——the retreat of the Consul Attilius Colatinus, amongst the Romans——Marshal Banier, amongst the Sweedes ——Marshal Belleisle, amongst the French——and, to add to the catalogue one of our times, that of his Excellency General Washington from New-York ——were all shamefully abandoning posts. But impartial posterity, as it formed a better judgment of those, so will it also do of that; and whilst the candid historian dwells with rapture upon the many shining events that have been produced by that distinguished Chief, he will point to that retreat, as the beginning of a system that has ensured the Liberties of America.

"And while along the Stream of Time his Name,
"Expanded, flies, and gathers all its Fame:
"Oh! may my little Bark, attendant, sail,
"Pursue the Triumph, and partake the Gale:
"When Envy, stung to Death, shall grant Repose,
"And Sons shall blush their Fathers were his Foes."

I have now got through the main body of the charges, but there are still some light parties of Commissaries and others, intended to act, I suppose, as irregulars, with whom there must be some skirmishing; for though their testimony has not the least connection with any of the charges, it has taken up the time of the Court, and makes a considerable figure in the proceedings. The provision returns I suppose are meant, indirectly, to strengthen the charges, or to create a suspicion of carelessness or waste in that article.

I have admitted Mr. Yancey's return of the 20th of June, which states that there was on hand at Ticonderoga and its dependencies at that time 2015 barrels of flour, 195 barrels of beef, and 784 barrels of pork; on which the Committee, having taken an estimate of Mr. Avery's (which states that 1400 barrels of flour, and 661 barrels of beef, would afford sufficient pro-

vision in flour for 4000 men for 66 days, and in beef for 75) for a foundation conclude, that there did on the 4th of July remain, or ought to be, if provisions had been properly and regularly issued, then remaining, 1625 barrels of flour, 3 barrels of beef, and 784 barrels of pork; which, they say, was a magazine sufficient to afford *full allowance* of provision to 5639 men of all ranks for 52 days in flour, and 32 days in beef and pork.

But Mr. Avery's statement is egregiously wrong; 1400 barrels of flour, averaging them at 200 lbs. and 651 barrels of beef, averaging them at 212 lbs. supposing the ration to be a pound of each, will afford 4000 rations of flour for 70 days, and of beef for 35 days only. But in 4000 men there will be 322 officers (I have taken the proportionate number of officers to the troops at Ticonderoga as the foundation) who, on an average, are entitled to draw three rations, and consequently for 4000 men, who have that proportion of officers, 4644 rations must be issued daily, which the stock above-mentioned would afford no longer than 60 days of flour, and 30 days of meat.

But the ration at Ticonderoga was a pound and a half of flour, and a pound of flesh (beef or pork) the addition having been made in lieu of vegetables and other articles, to which the soldier was entitled, but which the Commissary could not furnish. This Mr. Avery must have been acquainted with, and should have taken into the account; and this reduces the magazine to 40 days flour instead of 66, and 30 days meat instead of 75. As these are matters in which there is not the least intricacy, depending upon the most simple calculation, the Committee should certainly have satisfied themselves Mr. Avery's estimate was right, before they adopted it as a principle: As the principle is false, all the superstructure they have raised upon it falls to the ground. But the quantity is still over-rated; for it is certain, that in the division and distribution of provision they suffer considerable

waste.—I believe an allowance of five *per cent.* is made to the Commissaries on that account, therefore five *per cent.* is to be deducted from the whole quantity, viz.

	Flour.	Beef.
	280000	140132
Five *per cent.*	14000	7006
	266000	133126
Deduct $\frac{1}{3}$ from the flour, for the $\frac{1}{2}$ lb. added to the ration,	88666$\frac{2}{3}$	
Leaves	177333$\frac{1}{3}$	and 133126

to be divided by 4644, the number of rations issued daily, the quotient is 37 days flour, and 28 days meat nearly. In this manner Mr. Avery's estimate ought to have been made, and it was imposing upon the public, and upon the officers who commanded at these posts, to make it otherwise.

But the Committee go on, and in their sixth remark, still taking Mr. Avery's estimate for a groundwork, say that, supposing the number of men to have averaged 4739 from the 20th of June to the 4th of July, there ought to have remained of the quantity returned, as on hand by Mr. Yancey on the 20th of June, provision at full allowance, for men of all ranks, for 52 days in flour, and 32 in beef and pork, when the garrison was increased to 5639. Let us see what light a little arithmetic will throw upon this matter.

2015 barrels of flour, at 200 lbs. each, amount to	403000
Deduct five *per cent.* for waste,	20150
Leaves, - - - -	382850
From which deduct 15 days provision for 4739 men from June 20 to July 4, - -	107627

5639) 275223 (49 days nearly.

195 barrels of beef, at 212 lbs.	41340
784 barrels of pork, at 224 lbs.	175616
	216956
Deduct five *per cent.* for waste,	10847
	206109
Deduct 15 days provision for 4739 men from June 20 to July 4,	71085

5639) 135124 (24 days nearly.

These sums, as appears by the operation, divided by 5639, the supposed number of men, leaves flour for 49 days nearly, and meat for 24 days nearly; so that the calculation is all wrong here likewise; but let us examine what it ought to be.

In 5639 men there will be, according to the first proportion, 454 officers, and consequently 908 rations will be drawn daily beyond the whole number, making the amount, - - - - - 6547

But there were at Ticonderoga five General Officers, who with their families would draw *per diem*, - - - - -	60
124 artificers, at one and an half rations, -	186
Their officers eleven, - - - -	33
Commissaries, assistants and women, - -	100
Extra to parties, - - - -	74
Makes the whole, - -	7000

and the above quantities of flour and beef, divided by 7000 for the beef, and 10,500 for the flour (one half must be added for the half-pound) leaves of flour for twenty-nine days, and of beef for nineteen nearly; an ample provision for a siege! Neither is this calculation made upon a liberal plan, with respect to Ticonderoga, but a very narrow one, indeed a very narrow one any where, as neither the hospital, the sailors, the batteau-men, or any followers of the army are

taken into the account; nor any notice taken of the inhabitants who had been driven from their houses, and were necessarily furnished with provisions at that post, to enable them to reach the inhabited parts of the country; neither is there any notice taken of the real weight of the barrels, which, from the manner of packing them, fall greatly short, both flour and meat, of what I have calculated upon. I have proved by General Schuyler that the barrels of meat are generally about 170 pounds, which would reduce that article to about ten days provision. I have never pretended, for all this, that the want of provision obliged me to evacuate the posts, but the low state of the magazines, and the little prospect which it has been proven I had of an effectual supply, prevented me from calling in the militia: The Court will judge if it would not have been madness to have done it in these circumstances, and they will please to recollect that it is in proof, that although some provision was forwarded from Fort George after the 20th of June, the greatest part of it was sent back, the enemy having cut off the communication betwixt Ticonderoga and the landing previous to its arrival. I grant that an officer commanding at a post is in some measure responsible for the expenditure of the provision; and I am bold to say, that during my command, as far as it depended upon me, provision was issued with great œconomy.

Mr. Avery says that he did not know what quantity of provision was on hand at Ticonderoga on the 13th of June, the time I took the command there, but that on the 15th or 16th of June I wrote to him that there was provision at the posts for seven weeks. From his manner of mentioning this, one would imagine I had wrote merely for his information, and all was well; but the fact is, and he has owned it, though with apparent reluctance, that the design of my letter to him was, to complain of the small quantity of provision, and press a further supply in a decent, at the

same time the strongest manner, by putting him in mind of the ill consequences to himself that might attend a failure. This letter he never thought proper to answer, or give me the least satisfaction whether I might expect supplies or not. It has been proven that the magazine at Albany was empty, and part of the provision that had been forwarded to Still Water, on its way to Ticonderoga, was carried back for the supply of that post. Upon my way from Albany to Ticonderoga I found the magazine at Fort Edward in the same case, and the provision that had been forwarded from thence to Fort George bringing back to supply the troops at that post; as appears by my letter to General Schuyler of the 10th of June, from Fort George. Mr. Yancey indeed says, he had heard of salt provision having been sent from Bennington to St. Coak, but is ignorant of the quantity, but does not pretend to say there was any magazine from which the posts at Ticonderoga could have been supplied. That very provision sent from Still Water to Albany was part of that which came from Bennington; but why should I multiply words, Mr. Avery acknowledges he was deceived by the people he had employed to purchase provision, "they did not collect the quantity he expected." It is true, some cattle arrived at Ticonderoga the day before the evacuation, I believe about forty,—they arrived too late to be of any use in the garrison, but they were of great use on the retreat.

I have said the ration at Ticonderoga was a pound and a half of bread and a pound of beef or pork, but I am not able to prove it. The march of a part of the army has deprived me of several witnesses I intended to have examined. I know it, however, to have been the case. The Commissaries, whose business it was to be perfectly acquainted with what was issued as a ration, know nothing about the matter, neither Principal nor Deputy. Mr. Avery knows nothing about it, for he was at Albany; Mr. Yancey knows nothing about it, for he was purchasing cattle; and Mr. Boyer,

the Issuing Commissary on the ground, is not certain what it was: He says, he believes it to have been a pound of bread and a pound of beef, or three-quarters of a pound of pork. He acknowledges the men did not receive the other component parts of a ration. They got briefs for them. He likewise acknowledges, that during the time he was at the post the same quantity of bread and meat was issued as a ration, that had been customary before and at the time he came into office. Now it is certain that a pound of bread and a pound of beef, or three-quarters of a pound of pork, is not a sufficient allowance for a soldier, especially when, as was the case at Ticonderoga, he is kept constantly to hard labour; his brief he cannot eat; and it is also certain that the Commissaries did not furnish them with vegetables and the other small articles; it is therefore probable that the quantity of bread and meat was increased. But in June, 1776, in Canada, General Sullivan ordered that, where milk could not be procured, the troops should have a pound and a half of beef or eighteen ounces of pork *per diem*, besides molasses, rice, Indian meal and pease; and this continued to be the allowance in meat until some time after General Gates took the command, who altered it from a pound and a half of beef, or eighteen ounces of pork, to a pound of either, and added half a pound to the quantity of bread; and this alteration was induced, chiefly, by the prevalance of bilious complaints, which it was expected lessening the quantity of animal and increasing the quantity of vegetable food would help to abate: That continued to be the ration at these posts until the evacuation, some temporary alterations excepted, when the troops were supplied with vegetables. And this reasoning is confirmed by General Wayne's orderly book, by which it appears, that on the 30th of December he reduced the quantity of flour to one pound and a quarter, and of meat to one pound, vegetables being then issued by the Commissary,

agreeable to the resolve of Congress of the 28th of December, 1776; and, doubtless, when these were expended, the ration returned to its former standard.

Head-Quarters, June 11, 1776.

Parole, St. Lawrence.———Countersign, Sorrell.

THE General orders the several Commissaries to deal out the following rations in future, viz. corned beef and pork four days in a week; salt fish one day, and fresh beef two days, if it can be procured. Where milk cannot be procured, the people must have one pound and an half of beef, or eighteen ounces of pork, *per* day; half a pint of rice, or one pint of Indian meal, *per* week; one quart of spruce-beer *per* day; or nine gallons of molasses to 100 men *per* week; six pounds of candles for 100 men *per* week; three pints of pease or beens *per* man *per* week, to be calculated at six shillings *per* bushel, and where the same cannot be procured, the men to receive it in such articles as they choose.

Extract from General Sullivan's orders, which, according to the best of my knowledge, is a copy of the General Order which established the ration, and parts of a ration, in the grand army at Cambridge, which was afterwards issued at New-York, and ordered to be issued by General Schuyler at Albany some time in May, 1776.

ALEX. SCAMMELL, Adjutant-General.

Monday, December 30, 1776.

THE Commissary is to issue one pound and a quarter of flour, and one pound of beef, *per* man *per diem,* until further orders.

December 28, 1776.

RESOLVED, That the Commissary-General be directed, without fail, to supply the northern army this winter with vegetables, twice in every week, or

more frequently, if possible; and to take effectual measures that they be well supplied with vinegar.

The attention of the Court has been a good deal taken up with a quantity of tallow that was in the possession of Mr. Leavenworth. He says, I think, that he informed me of it on the 26th of June, and it may be that he did so; but as I knew Leavenworth to be a private person, and as I had no official account of any tallow, I concluded it was altogether a private affair, some money-making job betwixt him and the Commissary. Reflecting, however, on the quantity, which was surprizingly great, 34,345 pounds, and finding it was public property, I determined to have sent it to Fort George by the first opportunity; but before any opportunity offered, that communication was cut off. Mr. Yancey acknowledges he had never made any return of this tallow, tho' it must have been great part of a year on hand. If he had, I should not have suffered it to remain there; tho' it might perhaps have been worked up at that place more to his profit, had he been allowed to employ soldiers, which seems to have been his expectation. As he never did make any return of it, and the only account I ever had was from a private person, a very short time before the communication with Fort George was stopped, the loss of it is justly chargeable to his negligence, and he ought to be responsible for it.

The second remark of the Committee is a misrepresentation of my letter to General Schuyler of the 24th of June. They say I was on that day informed by my scouts that the enemy were very numerous, and on the next wrote to Congress that I was not able to discover whether the enemy were in force or not. Let the letter speak for itself. "Serjeant Heath, who I sent down the Lake to make discoveries, returned last night, and informs me that, from a place near the mouth of Otter-Creek, he descried an en-

campment of the enemy on both sides of Gilliland's Creek; that, from the appearance and the extent, *he thinks* it must contain a great body of men; and that a great many smokes arose at a distance back, which he supposes was from the encampments of the Indians;" and again, "that one of the inhabitants, in whom he could place confidence, informed him the *Indians were very numerous;*" and in another place, "that another inhabitant informed him, that some of the enemy's troops had said their whole army was there," that is, at Gilliland's Creek. Now, Sir, is there any thing in all this like positive intelligence that the enemy were *very numerous?* No, Sir, there is not. The encampment was seen from a very considerable distance, across the Lake, and the serjeant *thinks* that, from the *appearance* of it, it might contain a great body of men. An inhabitant, indeed, *told* him the *Indians* were very numerous. Four or five hundred, Sir, is a large body of Indians, and what the inhabitants any where would call very numerous, but ten times that number is not a great body of troops; and for aught I knew, and had reason to believe, the whole of their army left in Canada did not amount to that number. There was therefore no inconsistency in my writing to Congress on the 25th of June, that I was not able to discover whether the enemy were in force or not, notwithstanding the information I received by my scouts on the 24th. But, in the same letter, I gave General Schuyler my reasons for not believing that there was a great body of men in that encampment (of which the Committee do not think proper to take any notice) viz. that it was improbable the enemy would waste their time at such a distance from the object against which they were to act, in a country that afforded them nothing (the inhabitants had all left that side of the Lake the year before) and they had been there four or five days; and I thought the ground, on which Heath described the encampment to be, incapable of containing a great number of

men. Therefore it was more probable that it was a party only sent to amuse, and to give confidence to the savages. Had I given Congress other information than I did on the 25th of June, it had been a falsehood.

I have now got through the whole of this matter, and it clearly appears there is not the smallest foundation for all, or any of the charges against me.—— On the contrary, it has been proven beyond the possibility of a doubt, that I did every thing which my duty required, and that circumstances would allow. I have therefore good reason to expect the decision of this Court in my favour. Yet I still shall have it to regret, that the accusations have spread far and wide, and been greedily swallowed for truth, whilst few, comparatively very few, will ever hear of the honourable acquittal.

If in the course of this business I have appeared with confidence, I hope I have not with arrogance; and though I have examined the report of the Committee of Congress with freedom, I have not forgot to do it with decency. No man can have a higher sense than I have of the respect in which Congress ought to be held; but a dignified conduct can alone secure respect to any man, or body of men. That conduct this Congress will, no doubt, ever preserve. But should some future Congress depart from the great business of watching over the affairs of a whole continent, to hunt down an individual——should factions arise amongst them, and local interests take place of the general interest——should their time be wasted in frivolous and endless disputes, where the object is a mere boyish desire of victory, whilst the public service stands still, and its honest servants tired out with tedious and expensive waiting——and should they create offices with great salaries, where those who hold them may rob the public at their pleasure, without a possibility of detection, and cabal amongst themselves for the disposal of them——and should

they pass resolves, ridiculous in themselves, and impossible to be carried into execution——then will Congress sink into contempt, nor will all the importance they may endeavour to assume, nor the fastidious pomp they may display, support them, and then will the misfortunes of America begin.

My reputation having suffered by a misrepresentation of the directions relative to Fort Mercer, given by me, in conjunction with the Baron de Kalb and General Knox, to General Varnum and Commodore Hazlewood, I beg leave to subjoin a copy of those directions to this Defence. It may serve to set the public right with respect to that matter, and to shew the baseness of those who have endeavoured to turn them to my prejudice. I believe, indeed, the principal agent has been a very reverend gentleman, a Member of Congress, Doctor Witherspoon I mean, who, forgetting the strict regard to truth his clerical character required, and the impropriety of a Member of Congress publicly pre-judging a matter that must ultimately be referred to Congress, has been taking every opportunity (and has had the meanness to do it in taverns as he has been passing through the country) to misrepresent the whole of my conduct, and, as far as in him lay, to prevent a fair trial and acquittal, should that follow, from wearing off the prejudices against me, which I have good reason to think were raised in the same manner; at the same time endeavouring to impress an idea of the injustice and partiality of Courts-Martial.

SIR, Fort Mercer, November 18, 1777, *half past nine at night.*

IN consequence of his Excellency General Washington's instructions to us to enquire, in concert with General Varnum and other officers, into sundry matters relating to Fort Mercer and the disposition of the troops under General Varnum's command, and their having informed us that the enemy have landed at

Billing's-Port with a force greatly superior to General Varnum's, and that there is reason to expect an attack upon his post to-morrow, it is our opinion that General Varnum should remove his troops to some convenient post on the upper side of Timber Creek, as soon as it can be done, governing himself by the circumstances that arise, with regard to the withdrawing the garrison of Fort Mercer. And if he should be reduced to the necessity of withdrawing the garrison, that the works should be blown up. But as the holding the fort is a matter of the utmost consequence, it ought to be retained to the last moment, consistent with the safety of the garrison, or until he receives his Excellency's orders on that head.

Signed,

A. ST. CLAIR, Major General,
BARON DE KALB, Major General,
HENRY KNOX, Brigadier General of Artillery.

To the Hon. Brigadier General VARNUM.

SIR, Fort Mercer, November 18, 1777, *half past nine at night.*

IN consequence of His Excellency General Washington's orders to us to enquire, in conjunction with General Varnum, the officers of Fort Mercer, and of the fleet, into the practicability of defending the cheveaux-de-frize, and preventing the enemy from raising them, and its being the unanimous opinion of the officers, and of the Commodore, and of Captain Robinson (the eldest continental officer of the navy) that the fleet can be of no service when batteries are erected on Mud Island, in the defence of either the river or the fort: We recommend it to the Commodore, with the first favourable wind, to attempt passing up the river, with the fleet, by the city of Philadelphia, to such place as he shall judge most

proper, endeavouring in his way to destroy the Delaware frigate with the fire-ships.

Signed,

A. ST. CLAIR, Major General,
BARON DE KALB, Major General,
HENRY KNOX, Brigadier General of Artillery.

To Commodore HAZLEWOOD.

THE Court, having duly considered the charges against Major General St. Clair, and the evidence, are unanimously of opinion that he is NOT GUILTY of either of the charges against him, and do unanimously acquit him of all and every of them with the highest honour.

B. LINCOLN, President.

The Court adjourn without day.

EXPLANATION of the DRAUGHT annexed.

A Old fort in very bad condition, wanting repair; could not be defended with less than 500 men.
B Stone redoubt, about 200 men would defend it, overlooketh the line Y, opposite the Lake, in Fort Independence.
C Block-house for 100 men.
D French redoubt upon the low ground for about 200 men, commanded by the opposite side.
E New breast-work for 200 men.
F New fleche for 100 men.
G New redoubt for 150 men.
H New redoubt for 100 men.
I Redoubt upon the low ground for 250 men, commanded by the opposite side.
K Jersey redoubt upon the low ground for 300 men, commanded by the opposite side.
L Redoubt upon the low ground for 100 men.
M Redoubt upon the low ground for 100 men.
N French lines upon the high ground, overlooks all the works on Ticonderoga side, for 2000 men, and not less, considering the great length and importance of the place.
R P Q O New works, in addition to the French lines.
S High ground, occupied by the enemy, and overlooks the French lines.
T Mount Hope, overlooks ground S, occupied by the enemy.
U Block-house, burnt by the enemy.
V V High hill, overlooks Ticonderoga and Mount Independence.
X The bridge.

MOUNT INDEPENDENCE.

Y Line upon the low ground, commanded by the opposite side B, for 800 men.
Z Barbet battery.
2 Line only marked upon the ground.
3 Picket fort for 600 men.
4 Block-house for 100 men.
5 6 Line, with three new made batteries, for 1500 men, and not less.
7 Block-house for 100 men.
8 Battery made by the enemy.
9 Road made by the enemy to cut off the communication from Mount Independence to Skeensborough.

II.

JOURNAL OF THE MOST REMARKABLE OCCURRENCES IN QUEBEC,

From the 14th of November, 1775, to the 7th of May, 1776.

By an Officer of the Garrison.

JOURNAL IN QUEBEC.

JOURNAL *of the most remarkable occurrences in* QUEBEC, *from the* 14*th of November,* 1775, *to the* 7*th of May,* 1776. *By an Officer of the Garrison.*

AFTER the rebels had surprised and taken Ticonderoga and Crown Point, they made no secret of their intention to penetrate as far into Canada, that season, as possible. They openly declared it in Albany in the month of May. Timorous people, among those who knew with what facility they traverse woods in their hunting parties, began to entertain fears that they might attempt to send a force against Quebec, by the way of Kennebek and Chaudiere Rivers, and by Connecticut and St. Francis, whilst General Carleton with the troops were employed towards Montreal. They recollected that suspected persons had been sent in the winter from Casco Bay by Kennebek to this place, and it was reported early in summer that armed men from New England, or Nova Scotia, had patroled in the parishes below Point Levy for some days, and had suddenly disappeared: these matters greatly alarmed some people, though the greatest part of the town looked on an expedition of that nature as chimerical, yet a guard was posted at Satigan to give notice of the approach of an enemy, in case that the rebel woodsmen might meditate a surprise.

The success of the rebels under Mr. Montgomery induced many people in Quebec to shew their sentiments, and, indeed, to act as if no opposition might be made against the rebel forces; a thousand different intimidating reports were industriously spread abroad concerning their numbers—our enemies within the

walls catched every favourable opportunity to work on the minds of such English and Frenchmen as were not confirmed in their principles.—They spoke to their fears.—Our force, said they, is nothing, theirs is great, and grows daily—Be wise and remain neuter, that you may secure good treatment from those who will undoubtedly take the town sooner or later.—Why suffer our property to be destroyed! if we attempt to hold out, our ruin is unavoidable; let's think of terms of capitulation, and banish all Quixote schemes of defence.

The Republican method of calling town-meetings was adopted: in these noisy assemblies the mask was thrown off; there one could perceive who were, and who were not, the friends of government; if report speaks truth, some of the town's folks had articles of capitulation ready to lay before the people at one of those meetings, after it was known that Arnold was on his march from Cambridge, by way of Kennebek, with fifteen hundred chosen men, to attack Quebec: this was about the end of October; then our Lieutenant Governor was indefatigable in putting the town in a proper posture of defence. The English and French militia mounted guard regularly, and seemed willing to do the duty of soldiers so far.

On the 3d of November we learned that a strong body of the rebels were not far from Quebec, and that the Canadians living on the Chaudiere did not in the least oppose their march. The Lieutenant Governor ordered all canoes, boats, &c. to be brought off from the opposite shore and from the Island of Orleans. On the 8th of November a boat from the sloop of war Hunter was fired on, and the Captain's brother (Mr. M'Kenzie, a midshipman) was taken prisoner in attempting to swim off to her, as she lay near Colonel Caldwell's mill, at Point Levy; next day the Hunter battered the mill; where a great body of rebels was lodged. Colonel Maclean arrived on the 12th from Sorel. On the 13th, in the night, Arnold crossed the

river St. Lawrence, and landed at Wolfe's Cove with the greatest part of his force. On the 14th a body of men appeared on the plains of Abraham, within 800 yards of the walls, and huzza'd thrice; we answered them with three cheers, and fired some grape shot among them; they did not wait for a second salute.

On the 19th, to the unspeakable joy of the garrison, General Carleton arrived from Montreal, in the Fell armed ship, in company with an armed schooner; at this time the rebels had retired to Pointe aux Trembles, seven leagues above Quebec; we saw our safety in his presence. On the 22d a most acceptable proclamation was issued by General Carleton, which commanded all persons not willing to defend the town to the last to depart in four days.

We had rank rebels in our militia at that time; this proclamation, so agreeable to the friends of government and good order, gave them much strength; from that moment good things were augured.

When the rebels appeared before the town, the strength of the garrison was as follows:

Colonel M'Lean with his Royal Emigrants, and Capt. Owen's fuzileers — —	200
British Militia — — —	500
Canadian Militia — — —	480
Seamen on shore with Captain M'Kenzie	24
Recruits, Emigrants from Newfoundland	90
Artificers from Newfoundland — —	32
Number in garrison 14th November	1126

Many people about this time recollected with regret, the inflammatory language they had used, at the public meetings called to consult about measures to procure a repeal of the Quebec Act. After having drawn the most hideous pictures of the distresses that would be entailed on the Canadians and their posterity, could they wonder that these people would not oppose their

New-England friends, who had come with an avowed intention to give them freedom, by forcing a repeal of that Act which was to render them the most miserable abject slaves.

The agents for the Congress saw with joy the dispositions of the Canadians; they saw that no opposition would be made by the natives of Canada to any measures the Congress should think fit to adopt to get possession of the country. The King's enemies here represented Canada as an easy conquest, and gave it as their opinion, that a handful of brave men, fighting for liberty, would be sufficient. They made uncommon efforts in the most severe season. The attachment of the besieged to the King and his Government makes us strong within the walls; such men, under such a General, will do much.

State of the Garrison of Quebec on the first of December.

70 Royal Fusileers,
230 Royal Emigrants,
22 Of the Artillery, Fireworkers, &c.
330 British Militia,
543 Canadians,
400 Seamen,
50 Masters and Mates of Vessels,
35 Marines,
120 Artificers.

1800 Men bearing arms.

The number of souls within the walls computed at five thousand.

There is plenty of provisions for eight months. Fire wood, hay and oats are scarce.

December 1, 1775. The country is covered with snow a foot deep. Wind S. W. raw weather, with showers of snow. The Hunter sloop and the Fell armed vessel came down from Richelieu, and were

laid up. Reported that 50 of the rebels are lodged at Mount's (a tavern, a mile west of the town;) fired some well directed shot, and dislodged them. Clear weather this evening.

2*d*. Cloudy; wind at S. W. much floating ice in the river.

Yesterday a habitant of Lorette was drummed out of town, for having industriously made disheartning reports concerning the strength of the rebels, and for advancing ridiculous untruths, to instil fear into the minds of the lower class.

Arnold's party, which traversed the woods, were clad in canvas frocks; it was said in the country that they *vetu en toile*;—the word *toile* was changed into *tole*, and the peasants trembled at the approach of men cased in sheet-iron.

The rebels are cantoned from La Pointe aux Trembles to Old Lorette, and parties of them scour the roads to town to prevent provisions getting in. The *habitants*, as we call the peasants, seem to be a dastardly set; if it is not cowardice that prevents them from insisting on going to market, it is a worse motive.—Would they but frown on the rebels, they would return from whence they came; but it is said that they receive them with open arms, and call them *nos pauvres freres*; they will see their folly when too late to repair the mischiefs their *pauvres freres* will have done to them.

The rebels have prevented a good many supplies from coming up by water from below; and the people of La Pointe à la Caille have unloaded some craft destined for Quebec. This shews the disposition of the lower parishes.

3*d*. Rainy sleeting morning, Wind N. E. Afternoon, S. W. clear air, freezing. Many people heard guns at a distance. Some peasants say, "that there is 4500 rebels at Pointe aux Trembles—some came by water, and some by land, and that they have many cannon.—They say that Mr. Montgomery heads them."

4*th*. Wind at W. to-day—it froze hard in the night —the rebels are lodged in every house near the walls. Jeremiah Duggan, formerly a hair-dresser in this place, has the command of 500 Canadians, under the title of Major.

5*th*. Last night Jeremiah Duggan entered the suburbs of St. Roc with a strong party; many Canadians enrolled in the militia were disarmed by him.

Duggan, to serve his own purposes, has reported that we are not on our guard; and that we may easily be surprised; for that he had laid his ear to Palace-gate, and walked from thence to the Canoterie without having been challenged.—It is impossible, for our sentries are very vigilant.—Cold to-day. A soldier of the British militia was tried by a Regimental Court-martial, charged by a Serjeant for refusing to do his duty.—Acquitted.

Fired several shot at a house about 1200 yards from the walls, behind which (it was said) the enemy were erecting a battery.

We get much false intelligence: our situation admits not of sending out parties of observation.

6*th*. Wind S. W. cold and cloudy. In the afternoon came to Palace Gate from St. Roc, a woman who gave information that many of the rebels were drunk at her house: she was told to inform such as chose to come in, that they should be well treated; four of them came in towards night. Small parties of riflemen came near our walls, concealing themselves behind old walls and houses in St. Roc, firing at our centries; we popped at one another all day without hurt on either side.

7*th*. Wind easterly—cloudy weather. The deserters report, that "Mr. Montgomery heads 2000 rebels, 500 of whom are Canadians.—Head-quarters Holland-house, two miles from town.—Detachments spread all around, to prevent any person from getting to us. They are to cannonade and bombard us; and after harrassing in this way for some days, they are to

make a general assault, and take us." One of the deserters served formerly in the Royal Americans: he was heard to say, that he knew the strength of Quebec, and that it would not be an easy matter to scale our walls. His officer, after a volley of injurious words for endeavouring to dishearten the men, used him otherwise ill: this determined him to hasten his desertion, which he had before premeditated. He says he is no Yankey, but a native of good old Ireland.

8th. There fell above six inches of snow last night; to-day the wind is S. W. the weather clear and cold—Riflemen firing as usual on our sentries.—Mr. Montgomery visited Menut's to-day; a few minutes after he got out of the cariole, a cannon ball from the walls killed his horse.

9th. Wind at west; pleasant, sunshine, mild. Various are the reports of the enemy's strength; we gather, however, that there may be about 1500 men; we do not count the Canadian rebels; every Englishman in town looks on them as cyphers; they are only to be dreaded in case they get the upper hand; if they do, it will be from no exertion of bravery on their side. It is said the small pox is among them—a fatal disorder in an American constitution; it has long raged in town.

10th. Wind N. E. cloudy and very cold. About two o'clock this morning we were bombarded from St. Roc; twenty-eight small shells were thrown into town, without doing further damage than hurting the roofs of some houses. Three-fourths of the town had great dread of shells until now, even the women laugh at them. At day-light we discovered a fascine battery on an eminence, about 800 yards to the S. W. of St. John's gate; we fired many shot through it. As some of the roofs of the houses in the suburbs of St. John's intercepted our view of the enemy's works, we set fire to these houses.

11th. Wind strong at S. W. with rain; in the night

43 shells were thrown into town without hurting a soul. By the appearance of their battery this morning, they have been hard at work last night; their riflemen kept a constant firing on our centries.

About mid-day the wind chopped about to S. W. it blew a hurricane; in half an hour the streets and ramparts were one continued sheet of ice.

12*th*. Wind at W. freezing very hard. Forty shells from the rebels last night. The riflemen were very busy in the suburbs of St. John and St. Roc, firing on every one who showed his head on the walls—we had one man shot through the heart. We returned their fire briskly, when we could discover any thing to fire at.

13*th*. Wind at W. soft fine weather.—Three shells thrown into town last night, damaged two roofs. It is reported that the rebels intend to build a battery at Point Levy, to play on the town from that quarter, and that a body of men is lodged in a house on the opposite beach. We fired a nine-pounder from the King's wharf; the ball went through the house; a number of men ran out, and made the best of their way up the hill; they discharged a volley from their musquets; the distance is near 1200 yards.

Skulking riflemen in St. Roc watching behind walls to kill our sentries—Soldiers, indeed!—Some of them fired from the cupola of the Intendant's Palace; we brought a nine-pounder to answer them.

We think four of the rebels have been killed to-day, and some wounded: we saw them carry off bodies in sleighs.

Our shells and 32lb. shot annoyed those who were at work on their batteries.

14*th*. No shells thrown into town last night—some snow fell—mild low'ring weather—wind at W. We sent many shots through their battery to-day. At mid-day it was opened with five cannon, six, nine, and twelve-pounders: their shot made no impression on our walls, and no manner of hurt was done in town.

15*th.* Mild weather with easterly wind. Every thing remained very quiet last night; they gave us a shot now and then from their battery. About nine o'clock two men in blanket coats, with a drummer before them, approached the walls; they carried a bit of white linen on the end of a stick: we allowed them to come near; they told our sentry that they wanted admittance into town, having letters for the Governor. A message was sent to the General; his Excellency answered, that they could not be admitted, neither would he receive any letter from them; that he would have no kind of parlé or communication with rebels. They went off saying, "Then let him be answerable for all the consequences that may arrive in future."

Towards evening they began to fire again from their battery—there was no firing in the night, nor did they throw any shells. We kept up a very hot fire on their battery to-day; we can perceive that the fascines are cut to atoms.

16*th.* A fine mild day with a S. W. wind. They have not fired from their battery this morning; we imagine we may have disabled some of their guns.

Afternoon. They opened on us again with three guns; they threw some small shells into town; we had three men wounded to-day from a garret window in St. Roc; we threw some shells into St. Roc.

17*th.* It blew hard and snowed in the night, with an easterly wind, dark and cold. About four o'clock this morning, a sentry behind the artillery barracks alarmed the guard at Palace gate; he averred that he had seen above six hundred men in the streets of St. Roc—the drums were ordered to beat to arms; every man made haste to his alarm-post, and there remained until daylight, but no enemy appeared to attack us—They must be alert indeed if they take us by surprise; the voluntary picquets in the upper and in the lower towns are very strong. No firing from the enemy's battery to-day.

18*th.* Wind at S. with snow, and a mild air. Some

shells were thrown in to-day, and we threw some into St. Roc's: very few of the enemy seen any where to day. A man was shot through the head from St. Roc; would it were destroyed; it serves as a secure cover to the rebels.

19*th*. Last night our shells set fire to St. Roc, and burnt four houses—mild weather, wind at S. with snow. We fired on some men skulking among the houses in St. John's suburbs at dark; they fire at random wherever they hear a noise on the ramparts.

Afternoon. Wind S. W.—cold weather.

20*th*. Wind very cold at west: nothing remarkable happened to-day. In such weather one's sinews are stiff with cold, every sense is benumbed: it is impossible to accomplish any design where activity is requisite.

The people in town put a threat in Mr. Montgomery's mouth; it is said that he told his men, that he will dine in Quebec, or in Hell, on Christmas-day. We are determined, says every body, he shall not dine here, unless he is a prisoner among us.

A Quebecer, a prisoner with the rebels, found means to convey a letter into town:—he writes, "that the Canadian rebels leave Mr. Montgomery very fast, and that his own people are quite tired of the expedition." Not so in town, there's a very conspicuous martial spirit among us; if they attack us, we will make a brave defence; so we think the quantity of ice and snow lying in the way leading to what we reckoned the weakest places, renders them at present exceeding strong.

21*st*. Wind W. N. W. excessively cold. Nothing has happened worth noting.

22*d*. Wind W. S. W. intensely cold. Colonel Caldwell's Clerk, who has been a prisoner with the rebels for some days, escaped from them, and brought a deserter along with him.

23*d*. Cold in the morning; at noon very mild, with a S. W. wind. Col. Caldwell's clerk reports, "that

the rebels are to storm the town this night. He has hitherto found it difficult to instil a certain soldier-like bravery into his raw troops, although they are larded with Europeans—although he has promised them plunder to the amount of 800 dollars each man. The people from the old countries say the Americans should lead; the Americans cede that honour to the Europeans. They have 500 scaling ladders prepared; they are made in a very clumsy manner."

How can they think to pass the ditch, weighed down with such burthens, and wading in snow in the face of our fire! They report the enemy to be about 2000 sickly;—the small pox is among them. A man of our's killed from St. Roc to-day.

24*th*. Cloudy weather, wind N. E. Above a thousand men were under arms, expecting an attack in consequence of the clerk's report, but every thing remained quiet. A deserter (formerly of the 28th regiment) came towards St. John's gate, fired his musquet in the air, clubbed it, and begged to be let in—ropes were let down, and he was pulled up. He says the intended attack is deferred on account of Mr. Wolf, the clerk's escape, and that they will attempt to storm us to-night, if his escape does not prevent them.

25*th*. Mild day, wind at S. W.... Last night every thing was remarkable quiet. Many signals by fire were seen all over the country—We suppose from guard to guard. Two thirds of the garrison lay on their arms, expecting, and ardently wishing for the long threatened attack; but day-light came, and no attack was made. It is said, that the rebels offer paper money to the peasants, who decline taking it before Quebec is in their hands. General Carleton, and such gentlemen in the upper town as are not on duty, sleep at the Recollets in their clothes. In the lower town also they have a like voluntary picquet.

26*th*. Last night was clear and inconceivably cold; the wind is N. W. to-day, freezing beyond expression.

No man can handle his arms in this weather, nor is it possible to scale walls.

27*th*. Hazy cloudy night the last, the wind at W. N. W. this morning with snow.

28*th*. The weather was clear and mild in the night. The wind is soft at S. W. to day.

29*th*. Last night the weather was clear,—no alarm: this morning is serene, with sunshine—we get no intelligence from the country. We perceive the rebels crossing the far end of the street, west in St. Roc, three and four at a time; many of them have the uniform of the 8th and 26th regiments.

30*th*. Wind westerly, very mild. In the night a deserter came in from the rebels; he reports, that "the army under Mr. Montgomery amounts to between two and three thousand men, including Canadians; that they have been newly cloathed, and are most plentifully supplied by the country people, who are paid in hard money. They have got shells lately from Montreal. The small-pox rages among them. The whole army was assembled at head-quarters, by the General's orders lately:—it was given out that they were to attack the town that night. Mr. Montgomery made a speech to them; he thanked them for the noble spirit they had hitherto shewn, and the zeal they had discovered in the glorious cause of liberty. He informed them that some circumstances had made it necessary to put off the attack for that night, but that he would soon ask them to follow him to an easy conquest. The Americans expressed an ardent desire to proceed immediately." The deserter's own opinion is, that they will flinch whenever they come within reach of our guns. He says, "all the old country people wish to be at home; they are not at all fond of attacking the town; they wish not to be aiding in distressing their countrymen; they did imagine they were to attack a parcel of Canadian slaves, professed enemies to the colonists."

They threw thirty shells into town, one third of

them did not burst, the rest did no damage. He warns us to be on our guard, for that we shall be attacked the first dark night.

31*st*. About four o'clock this morning, Captain Malcolm Fraser, of Colonel Maclean's regiment, in going his rounds, perceived signals not far from St. John's gate; and finding the weather such as the enemy wished for, by the last deserter's report, he alarmed the guards and picquets, who stood to their arms; all the sentries between Cape Diamond and Palace gate saw many and repeated flashes like lightning; on the heigthts of Abraham lights like lanthorns were placed on poles at regular distances. Two rockets were thrown up from the foot of Cape Diamond, and immediately a hot fire was kept up on those who lined the walls at that place, and a body of men were seen in St. John's suburbs; from the flashes of the enemy's firing we perceived they were hid behind a bank of snow; however we returned their fire, directed by their flashes: during this sharp musquetry, the drums were beating to arms, the bells rang the alarm, and in less than ten minutes, every man in the garrison was under arms at his alarm post; even old men upwards of 70 were seen forward to oppose the rebels. Colonel Maclean detached a party of the British militia, under Colonel Caldwell, to reinforce Cape Diamond; there he was to make the disposition of the men, and return to the parade.

Mr. Montgomery, with 900 of the best men attacked at Près de Ville,* and Arnold, with 700 chosen fellows, attacked at † Sault au Matelot. The attack at Cape Diamond, the parade of men (Canadians it is said) near St. John's gate, with a bombardment from St. Roc's, were intended to draw off our attention from the Lower Town, where the rebels were to make the real attacks.

* A strong post at the southern extremity of the Lower Town.

† A battery and guard house at the northern extremity of the Lower Town.

Our guard at Près de Ville had seen the flashes, every man was posted before the alarm was given; the gunners with lighted matches, waited for the word of command. Captain Barnsfair, who commanded the battery, coolly waited the near approach of the enemy; he saw a group advancing; they stopped within fifty yards of our guns; there they seemed in consultation; at last they rushed forward to their destruction, for our grape shot mowed them down; groans and cries were heard, but not a soul was to be seen; however, we kept sweeping the road with our guns and musquetry for some time. At the other end of the town Mr. Arnold was wounded in the leg, in passing the piquets behind the Hotel Dieu, from whence a shower of balls was poured on his party in their way to the Sault au Matelot; he was sent disabled to the General Hospital; the officers under him forced our guard, and made us retreat to a barrier about two hundred yards nearer the centre of the Lower Town; there we made a stand, returning a brisk fire, which the enemy under cover of houses, poured upon us.

General Carleton, experienced in military affairs, saw the advantage the rebels gave us over them; he improved it, and sent Captain Laws out at Palace gate, with a detachment of the troops to take the enemy in rear; and Colonel Maclean ordered Captain Macdougal to support him with a party, and to keep possession of the post we had abandoned.

Major Nairne of the Royal Emigrants, and Monsieur Dembourges of the same corps, by their gallant behaviour attracted the notice of every body. The General ordered them, with a strong detachment to the support of those already engaged in the Lower Town. These two gentlemen mounted by ladders, and took possession of a house with fixed bayonets, which the rebels had already entered, and thus secured a post which overlooked a strong battery on Lymburner's wharf, and commanded a principal street.

The regular troops, the militia, the seamen, in

short, every person bearing arms marched chearfully, led on by their officers. They placed the greatest confidence in the General's knowledge, and they advanced secure of victory. Colonel Maclean, the second in command, with that coolness which distinguishes the good soldier, had his eye every where, to prevent the progress of the attackers; his indefatigability since he arrived in Quebec merits much praise; no man could do more for the good of the service; every power of his was exerted, especially on this day. Colonel Caldwell took infinite pains with the British militia; by his good example he made that corps emulous to appear where danger made their presence most necessary.

The seamen were under the strictest discipline; Colonel Hamilton and Major M'Kenzie headed the brave fellows, who behaved as they do on all occasions, like British tars. The handful of Royal Fuzileers, commanded by Captain Owen, distinguished themselves, and the Royal Emigrants behaved like veterans. The French militia shewed no backwardness; a handful of them stood the last at Sault au Matelot; overcame by numbers, they were obliged to retreat to the barrier.

As the General had foreseen the sortée, made the victory ours, we hemmed the rebels in on all sides: they called for quarter, and we made prisoners,

1	Lieutenant-colonel,	Not wounded.
2	Majors,	
8	Captains,	
15	Lieutenants,	
1	Adjutant,	
1	Quarter-master,	
4	Volunteers,	
350	Rank and file,	
44	Officers and soldiers,	wounded.
426	Taken.	

The flower of the rebel army fell into our hands; we have reason to think that a great number were killed and wounded.

The prisoners say, that if Mr. Montgomery had attacked with the expected resolution we should have lost the Lower Town. Little know they of the situation of Pres de Ville; after the Lower Town is taken, it remains commanded by the Upper Town.

Liberty or Death, was wrote on slips of paper, and pinned to their caps.

We lost Captain Anderson, formerly a Lieutenant in the navy; 5 privates killed, and two privates wounded.

We took at St. Roc's two brass three-pounders, two royals, three howitzers, and some small shells.

January 1st, 1776. A very great snow fell last night; the whole garrison lay on their arms, but every thing remained quiet. The bodies that lay outside of Pres de Ville were brought in, thirteen in number. Two deserters from the enemy to-day, report that Mr. Montgomery is missing; the dead bodies have been examined, and his, M'Pherson's (his Aid-de-Camp) and Captain Cheeseman's, are found amongst them. Monsieur Lanaudiere was ordered to accompany Mr. Meigs, one of the prisoners called Major, to the head quarters of the enemy, to demand the cloaths, &c. of these unfortunate men; but by hints given to him by some Canadians at the end of St. Roc, he thought it prudent to return to town. The whole force of the rebels was collected between their advanced guard-house and Menut's. Many Canadians had joined them in hopes of plunder. A genteel coffin is ordered by the Lieutenant-governor for the body of Mr. Montgomery.

2d. All the last night an incessant fire was kept up from our walls on the rebels at the end of St. Roc.

The people of Beauport and the adjacent parishes actually believed that the Lower Town was in possession of the rebels. A volunteer comes from thence

over the ice to Sault au Matelot; he was amazed to find himself made a prisoner. Mr. Meigs went out to-day on his parole to fetch in the prisoners baggage, &c.

3*d*. Soft cloudy weather. Shot and shells thrown into St. Roc's. Many of the prisoners, officers and men, have been innoculated.

4*th*. There was no disturbance in the night.—Soft drizzly weather to-day, wind at S. W. Captain Anderson buried with all the honours of war. Mr. Montgomery interred privately.

5*th*. Wind S. W. with a great thaw. Making additions to the works at Sault au Matelot. Firing heard towards St. Foix. Mr. Meigs returned with the baggage in part.

6*th*. Wind N. W. It began to freeze early this morning—as the sun rose the cold encreased.

7*th*. Wind at W. very cold. We found some of the St. Roc people skulking there to-day; they are confined on suspicion of having been aiding and assisting the rebels.

It is reported in town, that the country people were told, the day after the attack, that the Royalists were beaten out of the Lower Town, 600 of us had been killed, and that they had lost but 15 men, and that General Montgomery was gone through the woods to Boston for a reinforcement.

Ninety-four of the prisoners, all Europeans, have petitioned to be enlisted in Colonel Maclean's corps of Royal Emigrants.

8*th*. Wind at N. E. cloudy, raw, blowing weather. The ninety-four men who petitioned to be enlisted into his Majesty's service, say that their engagements with the rebel party ended on the 31st of December. Before they were suffered to take the oath, they were told, that if they had determined to enlist only to procure liberty, they were wrong, and if they now repented of their intention, they should nevertheless be well treated: they all said they would serve the King

until the first of June, and they took the oaths accordingly. Some people think that they will all run away.

9*th*. Wind N. E. soft snowy weather. There fell a very great quantity of snow before the morning.

10*th*. Wind W. N. W. very cold. Last night a great many flashes were seen; the guards, on that account, were doubly watchful, as an attack was apprehended. They chose to attack us the first time, in like weather; the snow drifted much; many people walked in the streets this morning on snow shoes, and some folks dug themselves out of their houses, the snow having filled up their doors.

11*th*. Wind W. by N. very cold and very clear. It drifted in the afternoon, encreasing so as to fill the streets. Last night rockets were thrown at the General Hospital, St. Foix, Beauport, and round to St. Roc. Some stragglers fired from the houses in St. Roc on our sentries. A great gun which bore that way sent them off.

Two Recollets conducted to Point Levy some Canadians who had found means to get into town after the 31st December. They were let loose to tell their own story concerning our strength, and the good condition of our works.

12*th*. Wind S. W. fine morning; afternoon dirty; nothing remarkable.

13*th*. Bad weather last night. Palace-gate was opened, and a party went out to cover the people who went in quest of fire-wood; a great quantity was brought in to-day. About nine o'clock at night, false fires were seen at the end of St. Roc.

14*th*. Nothing extraordinary happened the last night. The wind is at W. to-day; the cold excessive. Some people think they have discovered a fascine battery at the end of the General Hospital.

15*th*. It froze very hard last night; wind S. W. to-day, blowing, drifting, cold weather. A report (which cannot be traced) prevails in town. The people of Montreal refused to comply with some oppressive

order which their new masters had issued; and that the Canadians had refused to march with Mr. Wooster to Quebec, after they had heard of Mr. Montgomery's death, and the defeat of the rebels.

16*th*. It froze hard in the night; a noise of hatchets heard in St. Roc. A fine mild day. The archives brought in from the vaults in the Intendant's Palace to-day.

17*th*. Wind N. E. mild and snowy. A French girl of the town, who had been confined by the rebels, on suspicion that she conveyed intelligence to Quebec, found means to make her escape from them: she says, that "two hundred of them have deserted since their defeat, and that they talk of making a second attack with 4000 men."

We imagine that they cannot have above 800 remaining, considering how many we have taken, the number killed, and the numbers that have left them. If they depend on the habitants they trust to a rotten support—we in the town count the peasants as nought on the side of the rebels. The girl informs us, that the Canadians whom the Recollets landed at Point Levy had got to the rebels camp.

18*th*. Wind S. W. but cold.

In honour of her Majesty, our gracious Queen, a royal salute was fired round the ramparts.

Palace-gate was opened, and much wood was got in from St. Roc.

A mill wrought by horses was 'set a going' to-day. It makes excellent flour, and grinds three bushel per hour.

19*th*. Cold clear westerly wind.

Mr. Motte, a Captain in the rebel army, escorted five baggage sleighs to Palace-gate; he had in his hand what they call a flag of truce, a handkerchief, or any thing white, tied to a short stick, held up to prevent firing: he brought some money to the prisoners.

About nine o'clock at night we perceived a house in St. Roc on fire; burnt to the ground; we know not

f it took by accident, or was set on fire by the rebels.

20*th*. Wind S. W. with showers of soft snow. The enemy's advanced guard-house, at the end of St. Roc, is situated at the foot of a high steep bank; it is covered by many houses; we threw shells and fired many shot at it to-day; we saw a number of them take place, six houses were burnt in St. Roc last night; they were set on fire at ten at night; there is now no doubt but the rebels burn them.

21*st*. Wind S. W. mild with snow. Three of the late engaged men deserted last night. If their report to the rebels shall be just, they will have but little desire to attack us a second time.

About ten o'clock at night, a small sloop that lay within 300 yards of Palace-gate, was seen in a blaze; many small craft lay near her, but no further damage was done. There is at least six centries who have that spot in view, but it is impossible to discover a single person crawling along on hands and feet; this is their method; they fire a slow match placed among combustibles, and crawl away again.

We got in a great deal of wood to-day.

22*d*. Wind N. E. drifty, cloudy, not cold. About two this morning some houses in St. Roc were set on fire.

A quantity of rum and molasses has lain in Mr. Drummond's distillery until now; part of it was got in to-day—the fire may spread that way.

23*d*. S. W. wind, mild weather. The covering party had a brass field piece out to-day; much firewood was brought in; 14 houses were consumed by fire in St. Roc; the great blaze gave light in every street and narrow alley in town—the reflection of the fire on the clouds loaded with snow, communicated an orange colour to the snow on the tops of the houses. The stillness of the night, and the crackling of the fire, made the scene pleasingly awful. To look into the country, there hung a majestic gloom over all the adjacent villages.

The rebels are doing what we should have long since done; but the General was averse to hurt individuals; he endeavoured to save the property of the poor people of St. Roc. They think if their houses are burnt, we must surrender for want of wood; but if they consider how many wooden buildings are in town, they would see how vain that hope is.

24*th*. Mild fine weather, wind S. W. Firing at the guard-house in St. Roc. Rum and molasses brought into town.

A guard of 18 men, posted in a house in St. Roc, near Palace gate; this guard is to be continued every night, to prevent these burning parties from passing towards the Canotrie. Houses burnt at the west end of St. Roc.

25*th*. Wind S. W. clear and mild weather. A strong covering party, with a brass field-piece, a six pounder, protected the wood cutters.

General Carleton reconnoitered at the end of St. Roc; he advanced with Colonel Maclean attending him, within a musquet shot of the enemy's guard-house; we know not his intention, but we imagine, that if the wheels of the field-piece had not sunk in the snow, a good account had been given of their guard-house—the rebels kept close—we saw three small parties, from ten to fourteen in each, advancing from Menut's and the General Hospital; they joined their guard, and there shut themselves up. Our shot and shells from town disturbed them not a little.

To-day, and for many days past, we have seen numbers of sleighs pass on the ice from Orleans towards the Canardiere, loaded. We suppose they carry provisions to the magazines. There was a vessel driven on shore on Orleans last fall, loaded with rum and molasses; perhaps they are carrying her cargo off.

26*th*. Easterly wind, with a little snow, mild air, heavy sky. A report prevails to-day, that Mr. Dumont, who left the town to be safe in the country, was plundered at Charlebourg; it is not said whether by

Canadian or New England rebels—and it is added that one Larche, who forsook his house in St. Roc, was killed defending his property from the like attempts at Beauport.

27*th*. Wind S. W. very cold. The party covering the wood-cutters have a brass field-piece, fixed on runners.

28*th*. Wind S. W. excessively cold; nothing remarkable.

29*th*. Wind west, clear and intensely cold. It froze exceedingly hard last night; if this weather continues but a few days, it is to be feared that the river will freeze up, an event that would double our duty, as soldiers, as strong guards, in that case, must be placed in many parts of the Lower Town.

30*th*. Easterly and cold morning. High wind, with snow in the evening, weather milder. Some houses west end of St. Roc burnt.

31*st*. East wind, dark and soft.—Getting wood in to-day—four men on snow shoes fired on our party at a great distance; as soon as they saw the flash of a gun from our walls, they tumbled down in the snow, got up and made off in great haste.—Houses west end of St. Roc on fire at nine at night.

February 1*st*. Cold, blowing, with drift. A few men, from their guard-house fired on our wood party; we returned their fire; we were at too great a distance to hurt each other.

An English woman had leave to join her husband in the country; the rebels stopped her, and made her return; she saw no one at their guard-house who spoke English.

2*d*. Clear and cold, with a west wind. Wood got in to-day; in the night, a house quite at the N. W. end St. Roc was burnt.

3*d*. Wind W. excessively cold. A covered wood party out. Some of the rebels covered by fences, &c. firing on our men; a shell sent towards their guard-house made them retire precipitately. In the

night, a small party of the enemy were discovered stealing cautiously along, close to the walls of the houses in St. Roc, in the design, no doubt, to pass our out-guard, and fire the houses beyond them. The eagerness of the out-picquet to surround them made them appear too soon, and the rebels scampered away.

4*th*. Wind W. clear and cold. By the appearance of the river, it is probable that it is frozen over at the Chaudiere, six miles above.

5*th*. Wind W. milder than yesterday, with squalls, a circumstance against the freezing over of the river.

6*th*. Wind high at W. with drift. Three of Colonel Maclean's new recruits deserted last night. They dropped themselves over the wall behind the artillery barracks, there is a bank of soft snow facing a declivity of 30 feet to the street below—they slid down the face of that steep into St. Roc. If the sentry had done his duty, who was posted not thirty feet from the place they dropped from, they could not have escaped; three of the same people are confined for hinting their intention to follow them.

7*th*. Wind S. W. clear and cold. Last night we discovered fire at the west end of St. John's suburbs, three houses were there consumed. There is a great quantity of cord wood that we may easily get from thence. The enemy's old battery commands these suburbs; some people say they saw light in it last night, and armed men at the end of St. John's; our guns command that street.

8*th*. The night was quiet. The morning is soft and clear. Little or no wood to be found now in St. Roc's; the snow covers the picquets. Three men were seen on the ice bending their course townward, a party from Beauport, on snow shoes, intercepted them, and carried them along with them.

Major Nairne, with thirty men, guarded St. John's suburbs last night.

9*th*. A heavy wind at N. E. with much snow; the

storm hourly increased until evening, it blew a mere hurricane—nobody could hold his face against it a minute. A sailor is missing; if he attempted to desert, he must be lost in the snow; in spring he may be found under the snow in the street; in some places it has drifted 20 feet high.

10*th*. Wind still at N. E. and very little moderated; the streets are absolutely impassable in many places without snow shoes. The first stories of many houses are under the snow; the windows of the second level with the street, and serve as doors. About eight at night the wind fell suddenly and it ceased snowing.

11*th*. Cold westerly wind. A man [the new recruits called him Captain Felton] carrying a white napkin on a stick, was allowed to come close under the angle at the two gun battery; being asked what he wanted, he said "he had letters from Mr. Abbot and Mr. Schaulk of the Royal Artillery for General Carleton;" the sentry told him, that the Governor should be informed of his message. Colonel Maclean was sent to tell him to return as he came; for that no letters nor message could be received through that channel, and he was ordered never to attempt a parlé of this nature for the future.

12*th*. Wind S. W. a fine moderate day; great working parties employed in clearing the ditch and ramparts of snow; one could walk through the embrasures into the ditch on snow shoes, although the foot of the wall is in these places 30 feet below the guns, which lay entirely buried.

13*th*. A fine moderate day. All the officers and men off duty are on fatigue to-day. Above a hundred of the prisoners are sent sick to the hospital.

14*th*. Wind at S. W. with fine weather. Eighty loaded sleighs passing towards Menut's. Two field-pieces placed at the door—people passing and repassing between that house and the General Hospital. Some of our shot went through Menut's house; we fired a long time at that object, at last we perceived a

man coming towards the town in a cariole carrying the old signal; he passed their guard-house, and waved with his handkerchief; we took no notice of him, but fired away at Menut's; he turned about and went back. These people have been repeatedly told not to presume to approach on any pretence whatsoever. Perhaps they find Menut's too hot for them, and wished to remove somebody or something from thence, and, in hopes of amusing us, sent this man with his flag.

Three of the Royal emigrants are missing to-day; two of them are of the first raised, the other is a new recruit.

There has been a great stir among the rebels within these four and twenty hours; three huzzas were distinctly heard last night from about the General Hospital. This afternoon near a hundred people were seen at a house a little more than a mile from St. John's-gate; some have been seen in their old battery to-day. It is imagined that they intend to set fire St. John's suburbs.

It is supposed by some that they have been reinforced from Montreal. May be they have had accounts of a strong reinforcement by way of the Lakes, and the news has been received with three cheers; but if they wait for reinforcement by way of the Lakes, they will remain too long near Quebec for their safety; but we shall see.

15*th.* A dark lowering morning, with a cold wind at N. E. The sentries on the walls discovered light on both sides of the street, in St. John's Suburbs; a little while after, the flames burst out at the windows, and six houses were consumed; we fired some random shot among the houses; not a soul was to be seen.

16*th.* Wind westerly, a fine day and mild; a very numerous party clearing away the snow from the foot of the wall near Cape Diamond; even after this day's abour, ladders of 14 feet would reach from the top of

the bank of snow to the embrasures in some places. About ten o'clock last night the rebels set fire to two vessels lying on the beach at St. Roc, and also to a house in St. John's Suburbs, but neither burnt. In the evening a twelve pound shot from the rebels fell in St. Lewis Street, some say from the old battery, others think from a guard-house west of St. John's Suburbs.

Six of the rebel prisoners, who were at their earnest request incorporated with Colonel Maclean's Corps, deserted last night; the remaining 84 were put under close confinement. We took them rebels, and their inclination is to join their party; it is hard on those who wish well to our cause, but as we cannot see their hearts, self preservation dictates to confine them.

Some people have been seen on the old battery to-day; a man in green (supposed to be a deserter from us) was observed pointing towards the walls at Cape Diamond.

A volunteer picquet is established at the Recollets.

17*th*. Westerly wind, a little cold, with fine clear weather; some well directed shot fired at Menut's.

The extra picquet is ordered to assemble at Mr. Collins's and Mr. Drummond's, being much nearer the ramparts than the Recollets. A smoak seen in the chimney of Dr. Mabane's country-house, a mile and half from the walls. No signs of people have been seen there since December last. We fired some thirty two pound shot, which went over all.

18*th*. Exceedingly cold westerly wind. Nothing remarkable happened last night. A few random shot fired into St. John's Suburbs.

About ten o'clock this night the suburbs was set on fire by the rebels, and seven houses were consumed; some musquets were fired at our sentries; they saw no body.

Menut's is a great rendezvous, probably it is head-quarters, there is a white flag flying on the house.

19*th*. Fine moderate weather, wind S. W. All the guns in the garrison were scaled to-day; there is 112 pieces on the walls, with mortars, royals, and howitzers.

The suburbs of St. John's still on fire.

20*th*. Westerly wind, clear and cold.

At ten at night the house nearest to St. John's gate but one was set on fire—nobody was seen, though the distance is not above 50 paces from our sentries on the walls. A great many houses were fired; the whole suburbs is now nearly consumed.

21*st*. A cloudy lowering mild morning, with westerly wind. About seven o'clock a party of 100 men, under Major Nairne, took post in St. John's suburbs, to prevent the remaining houses from being destroyed. In the forenoon twelve shot were fired from the enemy's guard-house west of St. John's suburbs; between that and the town, the ground rises to cover the houses, so that their guns must be highly elevated to throw shot over the walls.

Their old battery commands St. John's Suburbs; we saw two men on it to-day. If they had guns there, they would certainly fire on our parties.

Fired at their guard-house, and at Menut's; threw also some 10 and 13 inch shells well directed. Two men came from the Canardiere towards Sault au matelot, they stood at some distance, seemingly afraid to advance; an officer was sent to conduct them in, but by some mistake our sentries fired on him, and these two men ran away. In the evening 110 men, under Colonel Caldwell, relieved Major Nairne, in St. John's Suburbs.

22*d*. The weather was mlld last night and very clear; the northern lights were equal to a moon; all was quiet; in the morning the wind got to the N. E. and brought cold. A great quantity of fire-wood was got in at St. John's Gate to-day.

23*d*. West wind, lowering cold weather. About four this morning we heard the enemy's drums at Me-

nut's, St. Foix, &c. Sentries saw rockets in the night. The picquet marched out at St. John's-gate before day-light, and took post to cover a wooding party for the day.

24*th*. Wind S. W. fine moderate weather. Last night a deserter from the rebels was drawn up by ropes at Port Louis. He reports that "General Clinton commands, and that he has had a reinforcement of 400 men from Montreal; very few are left at that place. A reinforcement of 3000, under General Lee, had been on their march to this place, but a second order obliged him to march to Long-Island to attack Governor Tryon, who was there entrenching himself with three or four thousand men, including Negroes; he says some transports had arrived at New-York with foreign troops.

"General Schuyler had also received orders to march to Canada; he also had been countermanded, and ordered to attack Sir John Johnston, who was at the head of 500 men, with some Mohawk Indians, at Johnstown. Some small bodies of 20, 30, and 40, had arrived at Montreal, and that the Lakes were more passable on the ice than they had been at the same season for twenty years past."

He has also told us, "That it is reported in their camp, that it is the orders of the Congress to break the first officer who shall propose to storm Quebec? nevertheless 800 ladders are ordered to be made, they will be ready before the reinforcement arrives.

"A great many women and children (Soldiers wives) perished in the snow, on their way over the Lakes. All the Gentlemen who took arms under Governor Carleton, are ordered to deliver up their commissions; on refusal, they are to be sent prisoners to Hartford; he says this is contrary to their capitulation. The friends of Government back of Pennsylvania had been beat by the rebels.

"Governor Dunmore's *hell hounds* had been let loose, and burned Norfolk and Williamsburg.

"Two thousand men in South Carolina in arms for Government.

"The rebels have got down 16 pieces of cannon, the heaviest 12 pounders.

"Duggan, the barber, imagining that his services have not been rewarded, has gone for Philadelphia to lay his merits open to the Congress."

25*th*. Wind at N. E. warm and pleasent. The rebels threw six shot, 12 pounders, into town, from their guard-house west of St. John's Suburbs. A great quantity of firewood got in to-day.

Forty-nine men, with musquets and knapsacks, seen marching up on the Point Levy side, followed by many sleighs; all the Country around seems in motion.

26*th*. Wind N. dark sleety moderate weather. The whole garrison lay on their arms last night expecting an attack; every thing in town remained quiet. By the continual and general barking of the dogs in the Country, there certainly was some movement among the rebels. A man sent to Orleans, to return in three days.

27*th*. Wind S. E. close and sultry. About five o'clock this morning signals seen in all the parishes round about. Two men came so near the walls at Cape Diamond, as to be heard distinctly call, *Good morrow, Gentlemen*. Drums were heard, and a regular platoon firing, towards St. Foix.

Voices in the tone of hoisting great weight were heard from behind the rebel's battery.

28*th*. S. E. wind with soft snow—a thorough thaw. Every thing remained very quiet last night. A Canadian came in at Sault au matelot; he says he is but 13 days from Chambly. Colonel Maclean knew him there, and rewarded him for some services.

He is a well-wisher to Government; and willing to be of all the service in his power, he ventured to town to inform General Carleton, "that he had learnt that General Amherst was at New-York, with 10,000 men, from England.

" A person had been sent after Mr. Montgomery's death to take the command of the rebel army; he remained at Montreal only two days; he went off, declaring he would have nothing to do with men who had not kept faith with the Montrealists.

" Near 200 sleighs were sent over the Lakes early in January, to bring over the baggage of the expected reinforcement; after waiting near a month the sleighs returned with 160 men.

" The affair of the 31st of December lessened the number of the rebels 750; those who remain are afraid to remove, since the Canadians have threatened that they will cut them off in their retreat if they do not make a second attempt on the Town.

" It was industriously reported in the Country, immediately after the attack, that we had taken 60 Canadians prisoners, hanged them over the walls, and then threw their bodies into the ditch.

" They little knew the Canadians, if they imagined this treatment would spur them on to revenge.

" The Canadians patrole in all the roads leading to town, to prevent any person from getting in.

" General Amherst has summoned the Congress to deliver themselves up.

" Orders from the rebel General to the inhabitants round Quebec to provide quarters for 7000 men."

29*th*. High wind at S. W. with hard frost; every thing quiet last night. Armed men, with knapsacks, walking from Beauport to the General Hospital.

March 1. Cold N. W. wind. The voluntary picquet very strong last night. Some people seen on the other side St. Charles's river, opposite to Mr. Drummond's distillery; we fired the 24 pounder behind the Hotel Dieu at them. About seven o'Clock in the evening, a house under that gun was perceived to be on fire in the roof; it burnt in a short time to the ground; some think that the wadding fell on the roof, and that the wind blew it into a flame; others imagine the rebels may have set it on fire, in hopes

that the flames would spread to the distillery, from thence to the picquets above, and so to Montcalm's house, from thence the conflagration would become general.

2d. Towards the evening six or seven musquets were fired on our out sentries at St. Roc.

The man sent out the 26th has not yet returned; it is believed that he has been intercepted by the Canadian patrole.

3d. West wind, clear and excessively cold. The volunteer picquet will not consist of many while the moon lights us all the night. Between seven and eight in the evening, three of the Royal emigrants deserted; a party was sent to trace them in the snow; they were too late.

4th. Last night we made signals at the Cape Diamond by rockets.

It thaws very much to-day; the wind is easterly.

A rocket at Point Levy was answered by a gun at St. Foi.

A fatigue party cutting a deep ditch in the snow, facing the curtain at Cape Diamond. In the evening we threw some fire-balls from a mortar; they gave a great light; a combustible composition was hung over the angle at Cape Diamond; it burned well, and threw great light around; when it was almost consumed, petards and hand-grenades, fixed at the bottom of the ball, scattered balls and fragments of iron all around.

5th. Strong wind at N. E. with a heavy sky and cold rain.

This morning we discovered a red flag flying at Lynd's Mill, and another at St. Roc's guard-house; we suppose that it is in commemoration of the day on which a Boston mob committed many outrages; the magistrates were forced to call in the military to protect the civil power, and assist the peace officers to disperse the rioters. In the height of the scuffle, some people, perhaps the innocent, were unfortunately

shot in the streets; that transaction is called the *Bloody Massacre*, and said to have been planned by a bloody Ministry.

It is the interest of a few of their demagogues to keep the minds of the people constantly inflamed; and, for this purpose, studied orations, addressed to the passions, are yearly pronounced in all that gloomy solemnity which pleases and feeds the melancholy of a true New England Saint. Their pastors paint on the heated imagination of their canting flocks, the most dreadful pictures of ministerial tyranny. Children are taught that the only road to freedom in this world, and happiness in the next, is to oppose every power that shall pretend to controul them: God gave the wilderness, by their blood they maintained their right, against the accursed of Heaven, the Indians, who pretended the land was theirs from the Creation of the world. God fought for them then; God fights for them now, and will overthrow the dominion of a wicked people, who would fain enslave them." This is their language to their children.

It is proposed to raise a company of invalids in town. The ailments of some people incapacitate them to mount guards; others, in perfect health, make complaints of indisposition, and sleep soundly in their beds while their friends watch.

Such as are able to bear arms, whose laziness (or whatever motive more reprehensible) induces them to sneak meanly from their duty, will be drawn forth to public view, and ranked with the invalids; such people will serve as sentries where there is no danger, since no manly feelings can stimulate them to do the duty of good soldiers, in conjunction with their fellow-citizens. But neither their attatchment to his Majesty, nor the least sense of honour, can move such beings.

At night it hailed and rained. One of the prisoners in the Recollets was put under close confinement today for abusing the sentry over him, and for uttering many imprudent threats. "In a few days," said he,

"it will be my turn to stand sentry over you, and then I know how I will use you."

6*th*. It rained in the night. The wind is S. W. and it rains still; there is no walking in the street, the risings are covered with ice, and in every hollow there is a pond of water.

7*th*. Wind S. W. variable weather. Every day that the weather permits the people to work, strong parties are employed cutting trenches in the snow, outside of the walls.

About 30 men have been seen about l'Ance des mers carrying off boards and timber; a party of 20 went out to-day to reconnoitre; they saw a few at work, who ran away.

They saw a man was killed on the heights to-day by a ball from one of our wall pieces. They saunter, three, four, or five at a time, within 4 or 500 yards of our walls. A discharge of grape-shot generally makes them scamper.

A sentry-box, fixed on a mast 30 feet high, was this day set up on the highest part of the ramparts at Cape Diamond; from thence we can see every thing that passes on the St. Foix road, and all round us.

They hung out their red flag again to-day, near the St. Roc wind mill; it is a squat blanket, bordered with black tape, and some people frightened out of their senses, say, *Mon Dieu, c'est le Pavillon sanglant!*

8*th*. Wind at S. W. a mild morning. The small red flag, with the black border, is up to-day. About four o'clock this afternoon, a foolish fellow, one Robitaille, came in from Lorette: he knows nothing. It snows this evening.

At night, two men, Lamotte and Papinot, Canadians, crossed on the ice from the Island of Orleans. It was with much difficulty they passed the habitant patroles; they are anxiously careful to let nothing get to town. At every quarter of an hour they pass each other in bands, between the Point of Orleans and Beauport.

Lamotte is 11 days from Montreal, and only 30 days from New-York. He has lately been in New-England; the news he brings is very chearing to the King's faithful subjects.

He reports that "the rebels had made a desperate attempt to storm Boston, in which they lost four thousand men, the greatest part of which fell through the ice. The Colonists seem dispirited, recruits are raised with difficulty; he saw many of them on their way to Cambridge, sickly, and ill clad. The want of woollens is already severely felt all over the Continent. The reinforcements for Canada assembled very slowly; between 400 and 500 have arrived at Montreal; few, or rather no more, are expected soon. A hundred, better appointed than the rest, marched to garrison Quebec: when they arrived at Montreal, and found that we were likely to continue masters of that strong hold, 60 of them went off, and 40 laid down their arms, declaring that they were willing to perform the service they engaged for, but that they would not serve in any other capacity than guards for the City of Quebec.

"In a quarrel among the rebels, at Montreal, five were killed in the streets, and seven or eight sent wounded to the hospital.

"The rebels are to storm the town on the 15th of this month. Money is very scarce among them; the Canadians do not like their paper.

"Moses Hazen (formerly a Captain of Rangers, prefered by General Wolfe for his bravery to command on scouting parties of any consequence) accepted a Colonel's commission in the rebel army, though then a half-pay Lieutenant in the British army; he has raised 150 Canadian recruits. Edward Antil, who practised ten or twelve years as a lawyer in this province, is his Lieutenant-colonel. John Wells, a merchant of Quebec, is Deputy Commissary-general, acts for Price, the Commissary, who with Walker, the noted Justice, is gone to Philadelphia, to

give evidence against Brigadier-general Prescot, accused before the Congress of burning Walker's house, and for confining him in irons. The gentlemen of the militia, who refused to give up their commissions, have been sent prisoners to Chambly, among whom are, Monsieur D——, and Monsieur D——, and Mr. G——, Deputy Post-master.

He heard nothing of the troops which Chabôt reported to have been landed at New-York.

Our sentries on Cape Diamond hear working parties in the night about Wolfe's-cove, or nearer; some people think they are building floating batteries and batteaux, to pass Près de Ville, and set fire to the shipping in Cul de Sac, and in the confusion which a coup of that kind might occasion, come on the back of Pres de Ville and Sault au Matelot; or perhaps they are preparing platforms for the 16 guns they have got from above.

For some days past we have seen many small parties marching and countermarching between Beauport and the General Hospital.

The men who have shrunk from duty this winter, were to-day paraded, 180 in number, 100 of whom were found very fit for service in case of an attack; they were enrolled, and armed, and put under the command of Captain Francis Joseph Cugnet. This morning before day-light, we saw many flashes, and heard reports of musquets on the ice, about half way between Beauport and the town: it is probable that some people endeavouring to get to town, have been discovered by the habitants patrole, pursued and carried back.

9th. Wind to the northward of west, cold and clear. About two inches of light snow fell last night; the river is not very full of floating ice; the outermost vessels in Cul de Sac have their sterns free.

People have been seen at the rebels battery to-day; a working party throwing up an ice bank to obstruct the enemy's approach to Lymburner's battery, in the Lower Town.

114 pieces of cannon on the wall to-day; none under

six-pounders are counted; there are a number of small guns, grasshoppers, swivels, mortars, howitzers, and cohorns.

10*th.* Wind westerly, clear and cold. Picquets ordered to assemble as retreat beating.

The drums beat to arms, and the bells rang the alarm about ten at night; the picquets were instantaneously sent to reinforce Cape Diamond. In a few minutes the parade was full of armed men, who impatiently waited for the word to march; but in less than a quarter of an hour they were ordered home again. The alarm was given by our out-sentries at Cape Diamond; they saw a body of about 200 men advancing slowly up the hollow, from l'Ance de Mer towards the heights; on hearing a noise of voices on the ramparts, they halted a minute, and filed off.

Some people suspected that the prisoners would be very troublesome on an alarm; both officers and men behaved very properly, they put out their lights and went to bed.

11*th.* Wind W. cold and clear. The General reviewed the British militia on the parade; their arms were found in excellent order.

A deep and wide trench was begun in the ice, from the corner of Lymburner's wharf towards the river where open; and a trench was begun facing the curtain, near Port Louis.

Fire-balls where hung out at the angles, two were lighted, they made a great blaze, and shewed every thing in the ditch, and made the faces of the bastions very perceptible. A sailor attempted to desert from the Sault au Matelot guard at night. Our out sentries near Palace gate stopped him.

12*th.* Last night there fell near a foot of snow, with a N. E. wind; it blew hard at N. W. in the afternoon, and cleared up. Some of the rebels have been seen sauntering about the heights to-day; these stragglers fired at a distance on our working parties without, but did not reach them.

13*th.* Fine clear day, sharp air, wind N. W. It is whispered abroad to-day, that the Upper Country Indians have an intention to march down in a large body to the relief of this place. This rumour may have originally sprung from their own declaration, though we cannot trace it. Colonel Maclean sent Captain Littlejohn, with 17 seamen, to reconnoitre towards l'Ance des mers; they got near a sentry, who rolled himself down the hill, and alarmed about 100 men below, who all ran away; we fired on them, and some of them halted to fire on us; no body was hurt on either side, though some of our people pretend that three of theirs dropped. We talk of fitting out two batteaux, with brass six-pounders in their bows, to discover what the rebels are about in Wolf's cove. When the wind is from the west, the river is quite clear of ice on the Quebec side.

The men engaged with Colonel Maclean, suspected of an intention to desert, have been removed from the Recollets, to a stronger place in the artillery barracks, and those who have been prisoners since the 31st of December, are confined in the Dauphin barracks.

14*th.* Easterly wind, heavy snow. About five o'clock this evening, an officer in blue, with buff facings, with a drum beating before him, advanced from their guard-house at the end of St. Roc; he held a stick with linen flying at the end of it; we suffered him to advance under the angle at the two gun battery: he said he had letters for the Governor. The General was informed of the man's message: he sent his major of brigade to tell him, he could not be heard but in imploring the King's mercy. Then, says he, what am I to do? Return from whence you came, said the Major; he went off accordingly.

15*th.* Much thaw—a fine day—fitting out two batteaux. A canoe was sent with Capt. Laforce on the look out; he kept pretty much to the other side of the river; two habitants hailed her; they asked if they might with safety go over to town; being an-

swered in the affirmative, they said they would be over the next day.

Two Canadians arrived in the night from Beaumont in a canoe; they represent "that the Canadians below Point Levy are ready to take arms to drive the Bostonians out of the country; they say the rebels have no money, and that they hang their heads; they have long beat up for recruits, and they have got together about a hundred of the dregs of Canada; they have erected a battery at Point Levy, opposite to the Cul de sac, where they have a howitzer and one gun mounted. Provisions for 1000 men have been lodged in different places to supply that number daily expected from Montreal."

16*th*. Wind N. E. There fell about two inches of snow last night; nothing remarkable to-day except the very heavy rain.

17*th*. It rained all the night. This morning the wind shifted to S. W. and it rains still. The Beaumont men say, that the rebels by way of detering the country people from attempting to go to town, say, "that the plague raged within the walls, and the garrison died in great numbers daily." The voluntary picquets in the Upper Town are very strong every night; every man not on guard sleeps there in his clothes with his musquet lying by him, ready at a moment's warning. Captain Harrison and Captain Lester's companies do duty in the Lower Town. Every man in the garrison wishes ardently the approach of the enemy, confident that we shall beat them from the walls with great loss to them.

Some of the Canadian Royalists at Point Levy (few there are, it is feared) told the rebels, in answer to their questions concerning the elevated sentry-box, or look-out at Cape Diamond—"It is a wooden horse, with a bundle of hay before him; General Carleton has said, that he will not give up the town before that horse shall have ate up all the hay." Six of the Canadian militia refused to do duty on Drummond's wharf;

some said it was too dangerous a post, others were afraid of ghosts: they were sent prisoners to the main guard, and to-day they were exposed to the view of the rest of that corps and reprimanded.

The Beaumont Canadians returned in the night, and carried some of our lately printed Gazettes; they will endeavour to be back to town soon.

From the look-out we saw about 500 men drawn up before Holland-house, and about 200 at Menut's.

18*th*. Wind S. W. thawing mild weather; in the evening, the wind changed to N. E. raw and dark. The Batteaux are ready for launching. Too much ice in the river this evening. Many men seen about Holland-house, and all along the St. Foix road.

19*th*. Wind N. E. with snow and rain; in the evening it cleared up at W. Two batteaux and two cutters were sent up as far as Sillerie to reconnoitre. Major Nairne and Captain Owen went as far as the hill above l'Ance de Mer, but saw nobody. The Bateaux discovered nothing.

A batteau crossed over from Sillerie to day, a heavy body was hoisted out of it by a gin—probably a cannon for the Point Levy battery. A body of men seen near the old battery to-day. There is a line of sentries closely posted quite across the plains of Abraham, from the Coteau at St. Roc's to the River's side, to prevent any person from getting near the walls, and to hinder desertion into town.

20*th*. A gentle easterly wind, rather cloudy. A number of men were discovered about four o'clock this morning, by our out-sentries, near the end of St. John's suburbs; they did not approach; our picquets were drawn out to be ready to oppose the first onset. Twelve horses seen drawing some heavy load towards Point Levy battery. We heard a gun scaled about St. Foix. Three canoes crossed over to Sillerie; there is a market kept there. The place where we suppose they are erecting their battery on the Point Levy side is about 600 yards from high water mark,

and thence to the high water mark on this side 1100. Very variable weather to-day.

21*st*. Wind N. W. It froze last night very hard, and it still continues. Seven canoes, nine men in each, seen crossing to Sillerie.

22*d*. Wind easterly, cold and cloudy; we plainly perceive people at work on the other side; we see earth thrown up by men not in view, and we can plainly see some driving stakes. We are busy laying platforms, and mounting some great guns on the Grand battery; we have cleared away the snow from some thirteen-inch mortars; we fired some shot, and threw some shells towards the enemy. From the situation of their battery, we suppose they intend to hurt the shipping, and to batter Pres de Ville and Sault au Matelot, if they have heavy metal, which we doubt. At any rate our fire must be infinitely superior to theirs.

23*d*. Last night was very dark; we looked for an attack; the wind is still easterly. The wood yard is empty. Nothing remarkable. It snowed to-day.

24*th*. It was very dark last night; to-day it is cold, with a gloomy hard sky, though the wind is N. W.

25*th*. Wind N. W. excessively cold, clearing up. Chabot, who came to town lately, gave us room to look for an attack between the 15th and 25th; we have always been ready to receive the rebels.

We communicated orders by signals; at two in the morning, blazes on the look out, were answered by rockets from the Artillery barracks at three.

26*th*. It was exceedingly cold last night. About two in the morning the rebels lighted a fire-ball at their guard-house, west of St. John, and fired a musquet.

We threw some shells, and fired some heavy shot, at a large pile of fascines, which we suppose to be part of the Point Levy battery.

We perceived a party from Beauport to intercept two men walking from the Point of Orleans towards the town.

Laying platforms for some thirty-two pounders to flank the enemy's works. A great body of men seen at St. Foix; heard three chears.

27*th*. S. W. wind, and mild. All was quiet last night. At three this morning, signals by rockets from Cape Diamond, answered from the two gun battery. The large farm-house at the Canardiere, which served as a guard-house to the rebels, burned this morning to the ground. Many armed men on the Point Levy side. Canoes and boats frequently crossing the river above the town.

Ninety-six men walked armed in Indian file from the ferry-house, St. Charles's river, towards Beauport.

A batteau was sent up the river at night; saw nothing.

28*th and* 29*th*. Nothing remarkable.

30*th*. Every thing was very quiet last night. The wind cold and clear at N. in the morning; in the forenoon it changed to S. W. and thawed; a gin was set up at the Point Levy battery; our shot and shells disconcerted them, not a little.

Seven men appeared at the St. Roc's guard-house; fired a cannon at them, one of them fell; five ran off when we fired a gun at them as they stood between Port Louis and Cape Diamond; one of these men was in blue, faced with white. A quantity of wood got in at St. John's gate; men skulking behind their old battery fired on our working party; a shot from a 36 pounder dislodged them. Three parties, from 30 to 50 in each, marching on the ice from Montgomery's late quarters towards the river St. Charles.

Our sentries on the walls perceived a man wandering among the ruins of St. Roc; he seemed desirous of hiding himself; we sent out a file of men and brought him in; he was very drunk; he said he had lost his way; he arrived from Point aux Trembles this morning, with the fifth company of the first battalion of Pensylvanians; that three other companies are

expected with the second battalion. He is, or pretends to be very ignorant. All he says is, that we are soon to be escaladed and taken, that there are but few Canadians with the rebels, and that Mr. Hazen gets no recruits. In the night a body of the rebels advanced as far as the burying ground in St. John's Suburbs; the sentries could not say the number.

31st. Wind S. W. with snow; thawing. About two this morning flashes were seen, and the reports of musquets heard by the sentries at Cape Diamond, at Pres de ville as they imagined. Messengers dispatched to enquire; there they learned the firing had been at Point Levy. The prisoner taken yesterday, though now sober, adds nothing to what he said before. The prisoners confined in the Dauphin Barracks, had in the night forced two hinges from a door in the vault, which communicates with the street; it hung by a third, which they did not perceive, as they must have wrought in the dark. They were questioned, but they all declared themselves ignorant of the matter. Among these men, there was one Englishman; he discovered the plot.

One of the prisoners, some days before, made his escape out of prison, and found means to get over the walls also; he was to inform the rebels that they were ready on the first dark and stormy night, to seize on the guard set over them, and to proceed about 150 yards farther to St. John's Gate, and disarm the guard there; this being accomplished, they were to turn some cannon on the town, to defend themselves until they forced St. John's Gate open, to let in the rebel army, which was to keep itself in readiness every night, and march directly to St. John's Gate whenever they should discover the town on fire in different parts. All their officers were chosen, and the dispositions made. If they should find it impracticable to let their friends in, they were to secure their retreat by ladders, which they were to take from the roof of the prison and the adjacent houses; they were in that case to

throw over all the ammunition, rammers, sponges, &c. There were two of the prisoners, beside the Englishman, who would not join in the plot, but they promised secrecy, and at this moment they stifly deny that they know any thing of it. The officers, prisoners in the Seminary, knew nothing of the affair. A great many of these men were put in irons immediately.

The General, in hope of drawing on the rebels to an attack, ordered that the signal agreed on by the prisoners should be given in the night, and that every thing should be carried on as if they had made their escape, following exactly their plan. Preparations were made accordingly; piles of wood were prepared in different parts near the walls. The whole garrison was ordered to be on the ramparts, under arms, at two o'clock in the morning. Although the weather did not promise to be dark or stormy, yet the General thought it would be best to lose no time, for fear some deserter might inform the rebels that the plot of the prisoners had been discovered.

At four o'clock this evening a deserter came in; he is of the first battalion of the Pennsylvanians; he says, "the companies should be 65 men each, but they desert daily. The second battalion is expected, with three companies of the first."

April 1st. Wind soft at S. W. much thaw. At two o'clock this morning the garrison was under arms—every company was posted at their alarm posts—unluckily the moon shone exceedingly bright. The bonfires were lighted; a hot fire of musquetry continued for ten minutes; hubbub and confused mixture of cries were heard; then three chears were immediately followed, by a close fire from two brass six pounders turned towards the town—the musquetry still kept up —now and then huzzas. This was carried on for a considerable time, but nobody appeared without the walls, nor did we see a single signal. At day-light we were dismissed.

This feint will have a happy effect; it will shew the

rebels that we wish their approach, and the considerate among them will dread to face us.

We plainly discover four embrasures on their Point Levy battery—a large bank of snow to the right perhaps masks more.

The deserter who came in yesterday says "that in crossing the Lakes he met many small parties, of threes, fours, and fives, leaving Canada; that a Lieutenant had deserted; they brought him back, but he got away at last; he can encircle the largest gun they have with his arms; some time ago two of our shells fell without bursting; the powder they contained was sold at a dollar a pound; the rebels have but 13 rounds."

This afternoon another deserter came in, he says, "they have but fifteen men on guard near St. John's suburbs.

"The manœuvre of this morning alarmed the rebels; they stood under arms until day-light—many want to get into town. An old man, with an enormous perriwig, called General Wooster, came down from Montreal, with an escort of 40 men. There are great numbers of the rebels sick in hospital."

Firing shot and throwing shells at their battery, at Point Levy.

The general voluntary picquet ceases until dark moon.

2d. Wind S. W. warm clear sunshine; three men seen near the runs at Mount Pleasant; one had a large wig, supposed to be the Sieur David Wooster; another was dressed in scarlet, said to be Arnold; the third (say the people) was the engineer, Colonel Edward Antil. They were pointing out the weakest part of the walls to the old man, perhaps planning an attack. If they *feel bold*, they may chance to have their bones broke even at the weakest places. They are all wearing masks; every soul among them hide their fears: they dare not attack, but they are ashamed to say so to each other, after so much rhodomontade; be this as it may, we fear them not.

A party of 60 or 70 were under review near the General Hospital; a single shot broke their ranks, and away they ran.

Some people seen near the old battery at work; several small parties marched to their guard-houses; some people have seen, or imagined they saw, from the look-out, heaps of ladders piled up on the plains.

A cutter was sent in the evening to look into Wolfe's-cove; she got inclosed in the ice, and was carried along with the tide; the rebels discovered her, and fired six-pound shot at her; they were endeavouring to get boats afloat to send after her, but the men made a way through the ice with the butt ends of their musquets, and got clear.

3d. Wind easterly, soft and cloudy. About eight o'clock this morning, the rebels opened their battery at Point Levy with five guns, 24 pounders, 12 pounders, and 9 pounders, some shot fell short of the Lower Town, and some fell in Palace Street, spent. Their aim seems to be at the shipping. They have hit the Lizard frigate; a ball has damaged her foremast.

About mid-day we plainly heard the report of five guns, at between two and three leages distance down the river; from the report they may be large, yet as the atmosphere is heavy, a small gun may be taken for a large one at a distance.

Mr. Chabot left his little armed schooner on the Island of Orleans last fall; perhaps the rebels are fitting her out, and have been scaling her three-pounders; it is by three or four weeks too early to look for any thing from Europe.

The enemy threw three shells of nine inches from Point Levy; they did no damage. We made many most excellent shots to-day; in short, as soon as our flankers at the citadel played on them, their fire ceased. Very heavy rain this afternoon.

4th. It rained all night. The wind is about to S. W. We fire without intermission on the enemy; they fire dropping shots at us, many fall short. There

are but few people to be seen. Ten rockets played off at the ferry-house, St. Charles's River—answered by a gun from Point Levy.

5*th*. Wind this morning N. W. cold raw thawing weather. An eight-inch shell burst above the shipping in Cul de Sac; a piece of it cut a sailor on the head. They fired five guns and two shells early, drew in their guns, and ran from the battery. We threw shells into their works, and cut their fascines to pieces. The rebels burnt a small shallop, and some boards at l'Ance de Mer. Fatigue parties clearing the snow from the ramparts. The rebels watch an opportunity, and seize it, to steal a shot or two; they are afraid to stand to their guns.

A hundred and one men marching in a string from Beauport, towards the ferry-house; fired at it, and went through it; carried the timber for a block-house to the place where it is to be erected, between Port St. Louis and Cape Diamond. One Loiseaux, an honest Canadian, came in at Sault au Matelot, at ten o'clock at night.

6*th*. Wind easterly, with a heavy sky; it thaws much. A deserter came in this morning; he reports, "that General Lee is on his way to this place, with a body of 4000 men; he halted, ill of the gout, and many of his men have deserted.

"At South River, below Point Levy, sixty Canadians, with Mr. Bailly, a priest, at their head, took arms, with an intention to surprise the guard at Point Levy, and to join the King's friends in Quebec. A villain informed the rebels of their plan, on which a strong party marched from Point Levy to take them; an engagement ensued, in which five loyal Canadians fell, and six rebels were killed. The Priest is dangerously wounded in the belly, two balls entered his body; 34 Canadians were carried prisoners to headquarters. If the Canadians had been well armed, the rebels would have had a severe beating."

He further says, "that they have ordered all the

priests in Orleans, who refuse to give absolution to the rebellious Canadians, to be carried prisoners to the camp. They have appointed a Priest, called Lotbiniere, to absolve the people; they give him a salary of 1500l. and promise him a bishoprick.

"They have granted the houses in the town to the deluded habitants who have taken arms in their favour: these poor devils stake a house at a game of berlan. From what the rebels tell them, they are assured that we cannot long hold out, as they are to cannonade us from the heights of Abraham and Point Levy, and to bombard us from the ferry-house at St. Charles's River; yet the greatest part of the habitants dread that we may stand out. There is great sickness among the rebels, many of them are under inoculation. The New-Yorkers engaged to remain in the service of the Congress until the 15th of this month; they have declared that they will lay down their arms, and return home after that day. Two gentlemen from New-York, with letters for General Carleton, were taken by the rebels; they had time to destroy their dispatches. We killed three, wounded two, and dismounted two of their guns.

"Our feint of the first, in the morning, kept them under arms until seven o'clock, when they were dismissed, quite dissatisfied, saying they had been made April fools.

7th. Every thing quiet in the night. Rain, hail, sleet, and N. E. wind. A good many shot from the rebels; no harm done.

8th. Southerly wind and soft weather. As day dawns, it is a rule with the rebels to fire four guns and a howitzer, then immediately draw them behind the merlons and retreat; they venture, from time to time, through the day, to pop a shot or two at us.

In the evening a ricochet shot entered at a window in the Upper Town, where the family sat round the tea-table; the eldest boy, of ten years, was struck on the back part of his head, and expired in the arms of

the father and mother in an instant. Some of their balls have a little damaged some roofs.

9th. Easterly wind, with soft drizzly weather. Much fire from us; from them very little. A decent looking man, one Chaucer, came in from the rebels; he talks a great deal; he says that "General Lee was on his march hither; he was called afterwards to take the command at New-York. The rebels without are 1800 strong, if 700 of that number sick can be called strength. They are to storm the town at Pres de Ville, Sault au Matelot, and Cape Diamond, between this and the 15th, on which day the time of many of the men will finish. The New-Yorkers look upon themselves as beings far superior to what they call the *Yankies*, meaning the people at Connecticut, Massachusetts, Rhode-Island, and New-Hampshire, who effect a disgusting pre-eminence, and take the lead in every thing. They are to batter us from a battery 500 yards from Port Louis, to mount five guns, nines and twelve-pounders. They are to bombard us with five mortars from a bomb battery behind the ferry-house, on St. Charles's River. They have two gondolas out in the river; they are preparing a fire-vessel to burn the shipping in Cul de Sac. The Canadians are very much discontented, as they are paid in Congress bills, a handful of which they will willingly give for a dollar; they have whipped a Canadian for speaking his mind too freely; they have maltreated a gentleman at Montreal, for beating an insolent fellow, a rebel officer.

"Arnold is to leave the camp to-morrow, and hasten to Montreal to send down all possible reinforcements.

"The rebels are without shoes."

Thus far Mr. Chaucer has informed us; he is suspected as a spy, and he will be taken care of accordingly.

From his story they cannot intend to attack us before the 15th. Arnold cannot get up at this season in less than three or four days, and it will be impossi-

ble for a number of men to get down in less than eight or ten days more. Come when they will, they will find us ready to receive them. Boats row guard every night. We have guns on all the wharfs, and in some of the ships in Cul de Sac, with strong guards and picquets in different parts of the Lower Town.

10*th*. Wind westerly; a very soft fine day, but the streets almost impassable, from the great runs of water; the remaining snow is porous and rotten; if one steps aside from the sleigh track, he sinks above the knees; how can these people propose to themselves to march loaded with ladders to attack us behind walls; we would cut them off every soul before they got half way through the ditch; our cannister shot would mow them down.

A young man, named Pepper, came in this morning from Cape Rouge; he confirms what Chaucer has said about the discontent of the New-Yorkers, and uneasiness of the Canadian peasants. "The rebels, despairing of success, have in some measure thrown off that shew of justice which they paraded before the habitants, and now enforce some pretty unreasonable commands. This young man's father was offered the command of a gondola. They are to attempt to burn the shipping by running the fire vessel full sail into Cul de Sac."

11*th*. Heavy rain, with a strong wind at N. E. Their battery is silent to-day; they say it must be full of water, being situated in a swampy hollow. Rocket signals were made at Cape Diamond, St. John's, and Palace-gate, at midnight. The rebels threw one at ten at night, at the ferry at Menut's, and at Holland-house.

12*th*. Thawing, sleety, easterly weather. The faces of the bastions and the ditch were lighted by fire-balls hung over the angles. The rebels fired a good many shot at Cul de Sac to-day; they did very little damage.

13*th*. Lowering morning, wind W. cold and freez-

ing. Fire-balls lighted, rockets played off at the guards as yesterday morning.

The Hunter sloop of war received a shot through her cabin.

It was discovered that the prisoners in the Dauphin barracks had filed off the rivets of their hand-cuffs, and had placed leaden ones in their stead.

People seen at work where Chaucer said they were to erect a battery on the heights; the ground is well chosen, but the Cavalier battery will destroy them; we fired some shot from Port Louis without much effect. Freezes hard this evening.

14*th.* No alarm last night. Wind at west to-day, clear and warm. Their shot from Point Levy is all directed to Cul de Sac; they put one into the Lizard's stern, and hurt the main-mast of a transport. Above 1800 men will be under arms to-night, in expectation of an attack; the block-house, about 100 yards outside of Port Louis was finished to-day, and a guard of twenty men posted there in the evening. The country is much in motion to-day, especially towards head-quarters; bodies of men seen.

15*th.* Clear frosty weather last night. We were ready to receive the rebels, but there was no disturbance. Fire-balls were lighted, and rockets thrown, as customary. In the afternoon we heard the voices of many men on the heights, singing out as is customary in moving heavy bodies.

In the evening a great body were assembled at Menut's, and three cheers were heard very distinctly. It is supposed by many that the New-Yorkers may have re-entered into the rebel service; others think that David Wooster may have been making a fine speech to them about liberty, and promising mighty and speedy reinforcements, and pointing out the glory and profit that will attend those who shall enter Quebec in triumph. At the word profit they gave three long cheers.

At nine at night guns were fired at the Point of Or-

leans, and signals were made there. A drifting shallop, we suppose, gave the alarm; one passed the town about dusk.

16*th*. Last night was mild and clear; the fire-balls were not necessary. Rockets were sent up at the usual places at one o'clock. Out-picquets at both block-houses. Wind strong at E. The rebels did not fire a shot in return for many sent to them at both batteries. We have geometrically measured the distance to the last, and find it to be 716 yards 2 feet. Rainy evening.

17*th*. Wind N. E. there fell two inches of snow in the night. Fire-balls lighted at one o'clock, and rockets thrown as usual. The enemy working on the heights. Canoes and batteaux passing and repassing opposite Sillerie, full of men. The rebels fired none to-day.

Captain Laforce went in a canoe to reconnoitre; he was hailed from the Point Levy side. The Canadians, on his asking why they did not come to town, answered, that they had no canoes, and were closely guarded; they pressed Laforce to go on shore; but, aware of Point Levy treachery, he paddled away with a "*bon soir*."

18*th*. Wind S. W. showers of snow. Fire-balls lighted, and rockets thrown as usual. Some shot from Point Levy early in the morning; canoes crossing from that side full of men. Wood brought in to-day. In the afternoon came two deserters from the rebels. They report that "the New-Yorkers, 300 in number, were assembled on the 15th; every argument was used to persuade them to renew their engagements, which ended that day; but before they were called together, they had determined among themselves to withstand the most pressing solicitations of their former Commanders; they represented that the Congress had deceived them; that their pay was still due, and that they had been in a manner forced to enter the service after their first engagement had

ended, therefore they would serve the Congress no longer; they had seen their error, and would return to their duty; they were determined never to fire a shot against the King's friends. Their speaker ended with a *God save the King*, which was echoed by one and all of them, with three cheers. Immediately these men were surrounded; they were very ill used, and confined; the dastardly Canadian vagabonds in their service were the most forward in this work. They say the rebels are 1200 well, and 600 sick; the Canadians are not included; they amuse the habitants with hopes of reinforcement, and they promise plunder to those who shall assist them in taking the town.

There is not a man at this hour within the walls who does not wish that the rebels may attack us; we know the reception they will meet with, and we know that they dread it, although they tell their men that they will be led to an easy conquest; but the 31st of December is not yet forgotten. If any thing will tempt the habitants forward, it will be the prospect of rich plunder.

"It has been whispered in their camp, that two ships have been seen in the river, to the great dismay of the rebels."

The ice of Lake St. Peter passed the town to-day.

19*th*. It froze hard, and was clear last night; all was quiet. Fire-balls, and rockets as signals *à l'ordinaire*. Wind S. W. cloudy and cold to-day. Wood got in to-day. Firing from Point Levy on the shipping. The Canadians are afraid that the town will be burnt, and they shall get no plunder.

20*th*. Two men who left Quebec last fall, came down from Cape Rouge in a canoe; they say "that the rebels have made a fire vessel of the brig Gaspey, which they took last fall; they have offered 20,000 pounds to any person who will steer her into Cul de Sac, and there set fire to the train. No Yankey, no Yorker, nor ever a Canadian, has yet been found to

offer his service. An Acadian has said that he will do it for 30,000 pounds, *en bon argent sonnant.*

"Colonel Caldwell, with the eighth regiment, is on his way down from Niagara, with a number of Indians, and that Arnold posted away to Montreal the moment this news arrived."

The rebels fired a few shot at us to-day. We have almost finished a battery of five twenty-four pounders behind the Hotel Dieu, from whence we have battered the ferry-house.

They say "that some of the people who left us last fall, have been very industrious in preaching to the Canadians, advising them to enter heartily into the Boston affair, else they will be irretrievably lost, and made slaves for ever." These men add, "that Chaucer was sent in, hoping that he might find means to get out again. He promised to return in three days, if alive; he got a commission in the rebel army but a few days before he came into town. They also say, that one of the prisoners, an officer, sent out a plan of signals, by which the friends within the walls could be instructed how and when the attack was to be conducted, and by what number, that they might, if possible, co-operate with those without.

21st. A clear serene night, no disturbance. The rebels beat to arms at three o'clock this morning. Their battery on the heights does not seem to advance. They fired from Point Levy to-day at the hour of going to Mass; it is a diabolical spirit! They can but hope to kill a few harmless women and children. They see that they cannot hurt the town. Hitherto they have killed a boy, wounded a sailor, and broke the leg of a turkey.

Fine weather, wind S. W. swallows seen to day. We keep a constant fire on the battery behind the ferry-house, from the walls between the Artillery barracks and St. John's gate, from the two-gun battery, and from behind the Hotel Dieu.

At dusk Laforce's armed schooner, with 30 fine fel-

lows, was hauled out into the stream; the rebels fired at her from Point Levy, and beat to arms; the schooner drove up with the ice; they were carried as far as Wolfe's-cove before the Lizard's boat could reach her with a cable and anchor. The schooner was fired on by a party; she gave them guns for musquets.

22d. At day-break snow with N. E. wind. Between nine and ten this morning the rebels opened the battery behind the ferry-house with two twelve-pounders. They have cut embrasures through a very thick breast-work which the French threw up in 1759. They fired between 30 and 40 shot at us; they only pierced a few roofs; they are obliged to elevate their guns very much. The red flag which has hung out since the 5th of March was taken down last night; some people say that their friends within the walls well know what that means—there is no apparent joy in the countenances of the suspected, perhaps no more reinforcements are to be expected.

23d. There fell three inches of soft sloppy snow since yesterday morning; it was dark and low'ring all night; we thought the night was favourable, and we had a general picquet. Captain Laforce made a canoe come on board which was attempting to pass; she proved to be from Montreal, with six men on board. Mr. Rousseau, one of the six, left New-York the 27th of March. There prevailed a report there at that time, "that 27 sail of large ships had been seen off Rhode-Island, and that the troops had evacuated Boston, intending for New-York; that Lord Sterling was to oppose their landing with a great force; that they have sent us a reinforcement by water from Boston; that he passed Mr. Thomas, lately an apothecary, now a general, with 1200 men, a reinforcement to the rebels in Canada; on the 3d of April he passed their advanced party at Stillwater, 27 miles on this side of Albany. There were 80 batteaux waiting then at Ticonderoga. Lake George was not passable. Six iron 24 pounders detain them much.

"It has been reported at Albany with fear, and talked of confidently at Montreal, that Colonel Caldwell with the eighth regiment, and a number of Indians, are on their way down from the Upper Countries.

"If there had been batteaux to be had, between six and seven hundred Canadians would have come along with them. General Lee is gone to Virginia."

The rebels fired a good deal from Point Levy and from the ferry-house; we made a great number of good shots at both; they have damaged a few chimnies.

They opened their new battery on the heights, by throwing six small shells directed for the block-houses; they all fell short, and some did not burst; we returned some of 13 and of 10 inches. We made our usual signals from guard to guard by rockets.

24*th*. Last night was clear and cold. The wind shifted to N. W. where it continues. The rebels fired red hot balls into town; they destroyed a few chimnies. Their fire is much slackened; ours encreases; we have most certainly very near destroyed their works; they fire but from one gun at the ferry; we saw them carry off some people in the heat of our fire; we have eleven guns bearing on the ferry battery. They still fire from Point Levy on the shipping.

25*th*. It did not freeze last night. St. Charles's River clear of ice—this will force the rebels to cross farther up than their battery, or they will cross in reach of our guns. Mounted a 24 pounder against their new battery on the heights; they hurt some roofs and chimnies as usual; they cannot sweep our streets from their batteries. Reports were heard at a distance, like 12 or 14 great guns. Some people please themselves with the hopes that they were fired on board a ship of war coming to our relief; others think the reports may have been from Chabot's schooner, or a brig of Arnold's which lies below.

26*th.* The last night was the worst we have had for many months; the wind was violent at N. E. with a very heavy rain; it cleared up in the afternoon; firing on all sides.

Captain Laforce chaced a parcel of canoes, the people got on shore at Point Levy—he upbraided them for not coming to town; they answered that it was not from want of inclination, but the moment they were missing, their houses would be burnt, and their stock carried off by the rebels. He ended his conversation by telling them that now was the time to retrieve their character, a few days would deprive them of it.

27*th.* The last night was very foggy; it was impossible to see half way across the ditch from the ramparts; we were very much on our guard. This morning is clear. At one in the morning, just after we had fired our signal rockets, five shot were thrown into town from the ferry-battery. We begin to look towards Point Levy for ships from England. A Captain in the rebel army, one of our prisoners, was sent on board the armed schooner for an attempt to escape from the seminary.

Between ten and eleven at night, the cathedral great bell rang the alarm, the drum beat to arms, and all the garrison was posted in a few minutes; it was a false alarm. A house on the beach, or a boat with brush-wood was on fire; the sentries called out, "A fire-ship! a fire-ship!" As it was known what the matter was, every man was ordered home.

The rebels did no hurt, though they fired a good deal to-day; we gave them ten shot for one, and some shells.

28*th.* It froze last night. Wind at west this morning, with fine weather. There has not been much firing on either side to-day. The balls fired by the rebels were hot.

29*th.* Wind S. W. serene mild weather. Four musquets fired on the heights in the night.

30*th*. A small breeze at E. with soft rain in the morning; fog with heavy rain in the afternoon.

On examining two soldiers of the Royal fusileers, who were possessed of a great deal more money than is common for a private to have, they confessed that they had been bribed by some of the rebel officers to assist them in making their escape the first time they should be on guard over them; they were to kill any sentries or other persons who should attempt to stop them; they were to have got over the wall of the Seminary garden to the grand battery, and walk down to the Sally-port, facing the Canoterie, there leap the wall, and pass through St. Roc to the first guard-house. On this charge, two of the prisoners, after proof being had, were sent on board Captain Laforce's vessel as a place of greater security.

The fogginess of the night made a general picquet necessary; every man slept in his clothes; his arms and accoutrements lay by his side. The guards and patroles were very vigilant.

May 1*st*. There is not many in the garrison who would not have been exceedingly happy to have had a certainty in November last, that on this welcome day we should see all our friends around us, and in health. All of us that were shut up together still remain in high spirits to congratulate each other on the near approach of relief from Britain.

Those who never saw a siege had many fears, well founded in their opinion. General Carleton wore still the same countenance; his looks were watched, and they gave courage to many; there was no despondency in his features; he had once said, that he should never grace the triumph of the rebels. He will find a numerous band to follow him in every danger; and what will not true bravery perform, led on by a man of spirit, conduct, and experience. He is known, and that knowledge gave courage and strength to his garrison. Since the attack of the 31st of December, it is a prevailing opinion, that six thousand American

soldiers would be beat from our walls, were they to make a second attempt to storm us. Colonel Maclean has been the most indefatigable officer that ever had the safety of a garrison at heart; he was here, there, and every where in a moment, and seen at all hours of the night and of the day. Captain Mackenzie of his Majesty's sloop of war the Hunter, was beyond expression active. The rebels batteries bear testimony of his abilities in pointing guns; he has much merit for having his sailors under the strictest discipline; he ranked as Major, and in that station his fatigue, as field-officer, every third day, was counted nought by him; he was happy when the service required him to be on duty.

Major Cox's experience in military affairs, and his engaging method of shewing the militia their duty, made those who happened to be on picquet with him happy: his care and assiduity in the service deserves the greatest praise.

Major Ecuyer, who has long been in the army, had, with the other field-officers, his turn of duty every third day; nothing in his power was wanting to forward the service both by example and precept to the militia, English and French.

In short, every officer shewed to those under him the duty of a good soldier, and the soldiers improved by their example. If ever emulation was conspicuous, it was in the garrison of Quebec.

At four o'clock this morning it began to snow, and by eight there lay three inches in depth on the ground —the wind is northerly and cold—it began to clear up in the afternoon. The rebels fired hot balls from the ferry, and from Point Levy—a shot entered the cabin window of the Fell armed ship, shattered a boy's leg, wounded a man dangerously, and two slightly.

A Canadian fellow came over from Point Levy today, as he pretends, on what Captain Laforce said to the pack he chaced on shore the other day. He says the rebels are 11,000; he pretends to be ignorant, but

he is known for a *vaut rien;* as he is looked on as a spy, he is confined. We took up a very large batteau which floated down St. Charles's River.

2*d*. The last night was very clear and very cold—standing water froze a third of an inch—it freezes still, with W. N. W. wind. The rebels fired many hot shot to-day from the ferry battery; some chimnies were damaged, and some roofs hurt. We made a sortie at Port Louis for wood: behind fences, three or four hundred yards from the walls, we found piles of scaling ladders, rather better made than those used the 31st of December, but yet heavy, and by far too short; we did not touch them, in hopes that they will serve as traps for the rebels. At twelve o'clock at night, rockets and a fire-wheel, played off on the grand battery, were answered by rockets from the Hotel Dieu battery.

3*d*. Last night was delightfully clear and serene; this morning the air is easterly, with hot sunshine. A fatigue party making a frize of them on the glacis.

About 200 men in three divisions were seen marching towards Wolfe's cove, the first had red colours, the second blue, and the third white; a number of batteaux attended them along shore; we imagine it is a part of Mr. Thomas's reinforcement, which Mr. Rousseau passed at Stillwater. Rebels firing red hot balls from the ferry battery. We carried down some cohorns to the north corner of St. Roc, to throw small shells from thence into their battery; they were covered by a party. Between nine and ten at night, on the top of the tide, a vessel was descried coming up before the wind; the people were wishing one another joy, not at all doubting but it was the first of the fleet. The General was informed of it; he told the messenger to order the artillery men to their guns. She was hailed three times; no answer was made; the fourth hail was accompanied with a threat to sink her in case she did not answer; she immediately sheered in shore; then the batteries played on her, and in a min-

ute she appeared all in a blaze at 200 yards from Cul de Sac, but very near the beach; shells, grenades, petards, pots-a-feu, burst very regularly; she seemed well prepared, and might have done much mischief had she been steered into Cul de Sac. A boat was seen to row very quickly away from her, the moment she sheered in towards the shore. It is thought that this was a brigantine of Arnold's which lay below; some say that it was the Gaspey, that had passed the town in a dark night, but most people think that it cannot be. The whole town was under arms in an instant after the drums beat and the bells rang; no confusion appeared, every body was cool, and wishing the rebels would attack. The night was most remarkable fine and clear. It is surprising that they chose such clear weather for this enterprize; they must surely know that there are King's ships in the river, and for that reason they sent her up, as the wind was fair. Her hull floated down with the tide, in a fine bright blaze; every man was ordered to his picquet, to be ready at the beat of drum.

4*th*. Wind still easterly, the sky heavy—it rained in the morning—at mid-day it cleared up at N. W. A few shot from Point Levy to-day.

5*th*. It froze very hard last night; the wind is still N. W. and cold.

6*th*. Last night it froze a little. There is a gentle breeze at N. E. this morning; at four o'clock guns were heard down the river, every two or three minutes. A woman came early to Palace-gate and called to the sentry "that Mr. Thomas, with his reinforcement was come; that David Wooster was gone off, and that there is a great bustle among them, loading carts with arms, baggage, &c."

About six a vessel appeared turning round Point Levy, to the inconceivable joy of all the garrison; every soul left their beds to run to the grand battery to feast their eyes, when they heard the joyful tidings. On our firing a gun she brought to, and fired their

guns to leeward. She proved to be the Surprize frigate, commanded by Captain Lindsay. Part of the 29th regiment on board, the first of the reinforcement; they, with the marines, were immediately sent on shore. The drums beat to arms, and all the different corps appeared on the parade. It was ordered that all volunteers in the English and French militia should join the troops and sailors, to march out and attack the rebels; every man almost in both corps was forward to offer his service.

General Carleton, at the head of about 800 men, marched out at twelve o'clock. Colonel Maclean was second in command. Colonel Caldwell marched at the head of his British Militia. The little army extended itself quite across the plains, making a noble appearance. We looked formidable to the rebels. A few of them were hid among the bushes, and fired on our advanced party, without hurting a man; the rest fled most precipitately as soon as our field-pieces began to play on their guard-houses; they left cannon, musquets, ammunition, and even clothes; we found the road strewed with musquets as we pursued them; clothes, bread, pork, all lay in heaps in the highway. We took howitzers, field-pieces, &c. &c. So great was their panic, that they left behind them many letters and papers of consequence to those who wrote them, and to the persons to whom they were written; they also left their orderly books; look which way soever, one could see men flying, and loaded carts driving away with all possible speed.

We took possession of the General Hospital, and of a guard-house two miles farther, Holland-house, Mr. Dupre's, &c. where we found pork, flour, ammunition, and artillery stores. At Sillerie we found flour.

In the afternoon two frigates were sent up the river to take and destroy their craft.

We mounted a Captain's guard at the General Hospital this evening.

7th. Every thing was very quiet in the night. This morning many priests have come to town from the adjacent parishes, with chearful countenances, to pay their respects to the Governor, and make their obeisance to the Bishop. Their distinguished loyalty will ever redound to their honour; a great number of people are flocking into town, many with guilty faces.

The peasants, with their eyes on the ground, come sneaking in with a few eggs, milk, butter, &c. meanly cringing and submissive, conscious that their base conduct merits chastisement. Ask one the price of his butter—*Ah mon cher, Monsieur, repond il, c'est à vous a faire le prix, ce que vous plaira, me contentera.*——Parties are sent into the parishes near the town. The frigate took an armed schooner at Sillerie; she took the Gaspé at Cape Rouge; they had been at work on her as a fire-ship; she took some other vessels; she fired at some batteaux full of men; they rowed close in shore, and, unfortunately, the turning of the tide obliged the frigate to come to an anchor; the batteaux got off; a number of people were killed, and some taken.

The rebels were in such hurry to get safe off, that they put their sick on shore, leaving many of them to perish on the beach. God be praised that we are now at liberty to breathe the air of the country. The rebels stole in upon us through the woods; a dreadful panic seized them, and they left us precipitately.

III.

THE CASE OF WILLIAM ATWOOD, ESQ.

1703.

THE

CASE

OF

William Atwood, Eſq;

By the Late King *William* of Glorious Memory, Conſtituted

Chief Juſtice of the Province of New York *in* America, *and Judge of the Admiralty there, and in Neighbouring Colonies.*

With a True Account of the Government and People of that Province; particularly of *Bayard's* Faction, and the Treason for which he and *Hutchins* ſtand Attainted; but Reprieved before the Lord *Cornbury's* Arrival, upon Acknowledging their Offences, and begging Pardon.

LONDON;

Printed in the Year MDCCIII.

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ACcording to the Notion of the Transferrableness of Supreme Power, the Government of the Province of *New York* was the Propriety of the *late King James* while *Duke of York*; and both then, and afterwards, when annexed to the Crown, had been *Despotick* and *Arbitrary* in the Administration. *Of the Government in the late* K. James's *time.*

Not only the Laws which should have kept Papists out of Offices, were dispensed with, but the Power of making Laws, and raising Taxes, was exercised by *Papists*, and others *their Adherents*, without any Consent of the People by Representatives of their Choice. With which, nevertheless, too many were well pleas'd, because they were indulged in all manner of Prohibited Trade, without regard to the Laws and Interest of *England:* Nor did such Traders ever feel the Smart of any Judgment or Sentence for the Crown.

But the *Body of the People* being unacquainted with those undue Methods of enriching themselves, and Lovers of the *English Nation and Laws;* having certain Information of the Deliverance from *Popery and Slavery* in *England*, and the Nation's declaring for their *Deliverer*, thought themselves obliged to follow such a commanding Example. As is own'd by those who would have them thought a few inconsiderable Persons, who by Surprize got into Power; *The People were universally inclined to the Revolution.*

Of the Revolution there.

Vide the printed Copy of their Address to the H. of Commons.

Most of them being of *Dutch Extraction*, tho born under the *English Government*, they proffered *Bayard*, a cunning *Dutchman*, the Honour of Heading them: But he, being desirous to have the Power continue in the *Adherents to Popery*, was only for turning out the *Profess'd Papists:* And such Artifice to keep the Government for and under King *James*, his Agents absurdly labour to pass for a Design *to forward the Revolution.*

Account of Bayard's *Trial*, f. 28.

Vid. *Memorial* of Adderly *and* Lodowick *on behalf of* Bayard.

Gave advice to turn all the Papists out of Posts, the better to forward the Revolution.

He refusing to comply with the universal Bent of the People, they chose one Mr. *Leisler*, an Eminent Merchant, a *German* by Birth, who in his younger days had been bred to Arms.

Of Mr. Leisler. Vid. *the Act reversing his attainder.*

By his Care and Conduct they soon dispossessed them who would have kept the *Fort* at *New York* for the late *King James:* And did considerable Service against the *French*, who took that opportunity to invade the *Province.*

Mr. *Leisler* was by *King William* under his *Sign Manual*, as *Governor* of the *Province*, required to keep the Peace, till other Provision should be made: And yet under colour of a false pretence, that he kept the *Fort* against the *King's Authority*, because he would not deliver it to *Major Ingoldsby*, then only *Captain* of an *Independent Company*, who pretended to the Government, *Bayard* and his Party, having insinuated themselves into the Favour of a weak *Gov-*

ernor Colonel Slaughter, procured *Mr. Leisler*, and one *Mr. Milborn*, an *Englishman* of Eminent Abilities and Worth, to be Tried for *High Treason:* And the said *Ingoldsby* being one of the *Judges*, they were Convicted and Attainted, and soon after Executed, contrary to Reprieves till the Pleasure of the Crown should be known, and to the most solemn Assurances given 'em by *Colonel Slaughter*, who but the day before visited them in Prison.

Of Leisler's *suppos'd treason, and the executing him and* Mr. Milborn.

The Account of this coming to *England*, after proofs, and hearing Col. *Dudley*, one of the Judges, all Circumstances being maturely consider'd in Parliament; their Attainders were Revers'd: Nor was any man more urgent for the *Act of Reversal* than the *Lord Cornbury;* as no man had more pressed for their unpresidented Executions than *Bayard*.

Of the Reversal of the Attainders of L. & M. Vid. *Act of Assembly.*

Six more, who had signaliz'd themselves in that Service to the Publick, being prudently withdrawn, were Outlaw'd for Treason and Murder.

The Terror of these Proceedings having caus'd the Principal Men concern'd in the *Revolution*, to fly into other *Provinces*, till the Rage of that *Persecution* might abate; the *Party* who had contributed to former Lawless Violences, procured a Majority, under *Bayard's* direction, to be return'd *Members* of the *General Assembly:* And not foreseeing any probability of falling into their own Net, they (*a*) obtain'd an Act, afterwards confirmed in *England;* which having condemned the *Revolution at New York*, as an *hasty and inconsiderate Violation of the true Faith and Allegiance to their Majesties Crown of* England; (*b*) *To prevent* the like Breach of that *Faith and Allegiance* [2] for the future, and, as they thought, to secure the then Possession to the old Instruments of Arbitrary Power:

(*a*) *Of the Act for quieting and settling the disorders*, &c.

Note, *This was before the Act which revers'd Mr.* Leisler's *Attainder.*

(*b*) Vid. *the Act for prevention whereof*, &c.

1. Recognizes their then *Majesties Right*.

2. Condemns the Exercise of any Power over the Subjects, unless deriv'd from their *Majesties* under the *Broad Seal of England.*

3. Makes it *High Treason by any manner of way, or upon any pretence whatsoever, by Force of Arms or otherways, to disturb the Peace, Good, and Quiet of that their Majesty's Government there established.*

This Act those very men who obtain'd it would now render absurd; and, as if, according to its true intent and meaning, as far as can be gather'd from the Occasion, the Preamble, and the Enacting part, or at least from the late Construction of it, *every petty Battery or little Trespass* would be such *a Violation of Faith and Allegiance to the Crown,* as is there provided against. And yet the *warm Advocate* who urges this, in the same Breath contends, that nothing is Treason within that Act, which is not a plain disowning the Right of the Crown, *according to the Establishment;* suitably to his Instance of *addressing to the French King:* But the Establishment of the Government there *under the Crown of England,* he supposes not to have been thought of; Tho he well knows, and Circumstances evince, 'twas principally intended: And the manner by which 'tis secured is manifestly *new,* in relation to the Law as it then stood.

Tryal, f. 17. Vid. *Mr.* Nicol's *argument.*

Ibid.

Ib. *It is plain by the whole purport of the Act, that it has made no new treason.*

According to others, whatever be the true meaning of that *Act,* it ought to have no effect; they supposing that all *Treasons* in *Foreign Parts,* notwithstanding the Legislature there, must be reduced to the Standard of the 25th of *E.* 3. Tho that Act leaves *Common-Law Treasons* to *Parliamentary Decisions,* and therein, without any Repugnancy to the Law of *England,* sufficiently authorizes *General Assemblies* in *remote Plantations,* in making such Matters *Treason* as were so at *Common Law.* But were there a difference; if the Legislature be but according to the *Prerogative of the Crown,* which is part of the *Common Law,* the People might, without any repugnancy to the Law of *England,*

by their free Consent subject their Lives and Estates to those different Terms. In the like sense, the Learned *Fortescue* held that the Laws of *England* were always the same. However, there is no need of that Observation here; because, taking the whole Act together, it cannot by any reasonable Construction be thought to mean more or less, than what was *Treason* at *Common Law*. The attending to which, will free it from all manner of Ambiguity or other Censure: And were there no such Act, the Government there could not be preserved, and the Laws impartially executed, without such apparent danger, that strict Honesty in Governors and Judges would pass rather for Madness, than a Moral Virtue. Vid. *Fortescue.*

'Tis certain *Bayard* and his Party thought they had gain'd a great Point, by having this Law confirmed by the *King and Council*; by which they might think the *Peace, Good,* and *Quiet* of the Government well settled and secured in their hands.

Then, as if they intended Moderation towards those, whose Crime was their early declaring for the *Deliverer* of the *Kingdom* of which that *Province* is a *Member*, they obtain'd another Act, for pardoning such as had been active in the *late Disorders*, as they call'd the *Revolution* there: And yet excepted out of it no less than *Thirty* of the principal *English* and *Dutch* Inhabitants of the Province; two of which are at this time of the *Council* there. And, as they pretended, for uniting the minds of the People, they by another *Act*, impower *Commissioners* of their *Set*, to tax Damages to such as should complain of suffering by the *Revolution*, as to them *should seem meet, in Equity and good Conscience.* If Summons was left at the House or usual place of Abode, of any Person complained of, who should not appear at the day prefix'd, he was to be deem'd a *Defaulter*, a Decree was to pass against him, and Execution to issue thereupon, and all his Real and Personal Estate to be extended, to make satisfac- Vid. *Acts, f.* 31. *Act of Pardon, f.* 33. *Act for taxing Damages, f.* 34.

tion for the *whole Demand.* Nor was there to be any Relief, but for *Error,* and that before the *like Set in Council.*

The then *Governor* dying, that Party having prevailed upon *Major Ingoldsby,* by the demand of the *Fort,* to colour their intended Proceedings against *Mr. Leisler* and others; thinking the *Major* likely to support them in their Violences against the Authors of the *Revolution* there, set him up for *Governor of the Province,* contrary to the *Act,* of their own procurement, which declares, *That none ought or can have Power, upon any pretence whatsoever, to use or exercise any Power over their Majesty's Subjects in that Province, but by their immediate Authority under the Broad Seal of England.* And the Government being by such Authority, upon the Death of the Governor, placed in the Council, it may deserve Consideration, whether by that very Act, such assuming of Power contrary to the establish'd Government, is not *High Treason:* And yet the *Major* for several Months acted as Governor; and from the 17th of *August* 1691, to the 26th of *March,* 1692, pass'd several Patents, wherein he stiles himself *Commander in Chief of the Province of New York.*

Major Ingoldsby's *second assuming the Government.*

In 1692, *Col. Fletcher* arrived with a Commission to be *Governor;* and found it not unprofitable to keep in with that Party, who were used to Applications to which the others were Strangers. That *illegal Trade,* which had been carried on before with greater Privacy, then appear'd more open: Several *Merchants* and *Factors,* without controul Traded with the *Pirates* of *Madagascar,* and known *Pirates,* for considerable Sums of Money obtain'd *Protections;* and Members of the *Council,* particularly *Col. Bayard* and *Mr. Nicoll* had Money for procuring them; and the Colonel own'd that no Security was taken for their regular *Trading;* and that no Persons were prosecuted, under what Suspicion soever they lay. Indeed

1692. *Governor* Fletcher.

Vid. *Report to his Majesty from the Lords Commissioners for Trade and Plant.* March 1698. 9.

for a blind, they for the most part gave Bonds to Trade regularly; but *Hanam* a mean *Irishman*, advanced to be *private Secretary* to *Col. Fletcher*, was the common Security, and having the custody of the Bonds, cancelled them.

Of the Earl of Bellamont's *Government.*

That pernicious Trade which was then carried on and countenanced, being greatly to the Prejudice, not only of all fair Traders who had not entred into that *Combination*, but of the Trade of *England*, and the *Customs* due to the Crown; the Publick Interest prevailing, the *late* Earl of Bellamont, a Person of eminent Probity and Worth, being sent Governor, he applied himself with the utmost Diligence to enquire into, and prevent the effects of that *Combination against the Laws and Trade of England.* Which that Party foreseeing, had offered him a great Sum of Money to oblige him to a Connivance.—This Offer having been rejected with Scorn [3], and no Consideration prevailing with him to neglect any part of an *excellent Governor*, who was in the First Place to regard the Interest of the *Crown* and *Kingdom*, on which that *Province* depends; in subserviancy whereunto he recommended one Mr. *Weaver*, an English Gentleman of known Integrity and Abilities, to be Receiver of the Public Revenue, *Collector* of the *Customs*, and a Member of the Council; they made it their business to traduce his Lordship with the utmost Inventions of Malice. And he having observed to the *Lords Commissioners for Trade and Plantations*, that besides the Prejudice to *England* by their way of Trade, many of them by *extravagant Grants* of large Tracts of Land for little or no consideration, had greatly obstructed the improvement of the Country; they by their *Agents*, whom they liberally Supplied, endeavoured to blemish his *Lordship*, as the destroyer of their Trade, and one that a design to Invade their Properties, and dispose to his Creatures what he should not think fit to take to himself.

And, being under no apprehensions of Punishment from the then *Courts of Justice*, they acted within the *Province* as if there were no Government; Published false and scandalous Libels against the *Governor*; continued their *illegal Trade*; by their Publick Threats, discouraged all informations against them; and with one *Mr. French* an *Hot Englishman* at the head of 'em, made a Tumult to prevent the seizure of forfeited Goods, and lock'd up and Imprison'd the Officers.

But these Matters were little, in comparison with their invasion of the *Legislature:* For there being *Sheriffs* of that *Faction*, who carried *themselves unfairly in their Returns of Representatives*, then consisting but of *Nineteen*, whereof *Eleven* sat by *controverted Elections*; those *Eleven*, being the greater Number, established themselves, chose *French* Speaker for his Noisiness and Warmth, brought all things into the greatest Confusion, without doing any manner of Service to the Publick; and necessitated the Earl of *Bellamont* to dissolve them, tho' his then *Majesty's* Revenue was near expiring.

The Disorders occasioned by these Men, were so great, that the *Lords Commissioners* for Trade and Plantations represented to the *Lords Justices* of *England*, that the *Corruption in the main* "*Body of the People of* New York, *by the long* "*encouragement they had in many illegal Prac-* "*tices*; was grown so great, and the *Opposi-* "*tion rais'd against* the Earl of *Bellamont* "*for his endeavouring to redress the same,* "*and lay open the Guilt of those* "*that had* "*been chiefly concerned therein, so strong*; that "unless his *Lordship were particularly counte-* "*nanced, and speedily supported* by their *Excellencies* "Authority, *in the discharge of his duty*; and that "all, or at least the chief of those who had been most "Guilty of the forementioned Miscarriages" (among which were, the Fitting out, Commissioning, Receiving, and protecting *Pirates* for considerable Gratifica-

(a) *Letters from the Lords Commissioners for Trade and Plant. to the Lords Justices*, 19 Octob. 1698

(b) Ib. Note, *two have been since added by Act of Assembly, and four more lately.* Ib.

tions) "were *discouraged, censured,* or *punished,* as "might be found necessary; it would be impossible "for his *Lordship* to effect anything of moment in that "*Province,* which might be for His *Majesty's* Service, "or for the good of the Province itself.

Upon this occasion the *Lords Justices* in a Letter to the Earl of *Bellamont,* express themselves "*extremely* "*sensible* of his *Lordship's* great Zeal and Dili- "gence, in *enquiring into and reforming the* "*many Disorders and irregular Practices,* that "he had found in that *Province;* and com- mend him for it; confirm the suspensions of *Mr. Nicol, Mr. Brook,* and *Mr. Pinhorn;* wholly remove them from their respective Places, excepting such as any of them might hold immediately in their own Right by *Patent* under the *Great Seal of* England: And in the like manner remove *Bayard,* then one of the *Council, for procuring Protections for Persons strongly suspected to be guilty of Pyracy;* and *Frederick Philips for undue Practices* in the carrying on and managing a *great illegal Trade.*

Letter *from the Lords Justices to the Earl of* Bellamont, 10 Nov. 1698. *Nicol, Brook, Pinhorn, Bayard, Philips.* * *He was turned out for scandalous words of his Majesty.*

Since such were the occasions of the turning out these Men, 'tis easy to know what sort of *London* Merchants they were, (*a*) who *complained of their uneasiness under* the *Changes his* Lordship had *made,* whose Memorial the Lords Commissioners for Trade and Plantations, as they declared, sent the *Earl of Bellamont only* for his *Information.*

Ib. *Declared to be contrary to the duty of their Places, and the trust reposed in them.* (*a*) Letter from the Lords Commissioners to the Earl, 21 Aug. 1699.

Some time after, the *Lord Bellamont* having given many Instances of the Favour shewn by *Col. Smith,* then *Chief Justice* (though never bred to the Law) to *Pyrates* and *illegal Traders,* and what sort of Law then obtained; the (*b*) *Lords Commissioners for Trade and Plantations* declare themselves "sensible, by the many Instances his *Lord-* "*ship* had given in all his Letters, with relation to "the *ordinary Course of Justice,* His *Majesty's Rev-*

(*b*) *Let. from the Lords Commissioners,* 11 Apr. 1700.

" *enue, Trade, Pyracy,* and *every thing else,* of the " greatest want of some Able Lawyers, especially one " for a *Chief Justice*, and another for an *Attorney-* " *General* in that *Province*; and that having there- " upon represented to His Majesty their Opinion, That " two may be sent from hence to supply these Places, " and that an establishment may be made here of " suitable Allowance for their Encouragement, they sent a Copy of their Representation and of a Minute of Council, shewing His *Majesty's* Approbation of a Proposal of 500*l. per Ann.* for a *Chief Justice.* But told his Lordship he might in the meanwhile turn out *Col. Smith,* if his Lordship found reason to believe him *Guilty of abetting Pyrates.*

Soon after which his Lordship turned out *Col. Smith,* and put in that worthy Gentleman *Col. De Peyster*; who modestly declined proceeding upon business, till some Lawyer might come from *England.*

The *Lords Commissioners* had likewise represented a necessity, as Trade was carryed on, and Juries interested or influenc'd in those Parts, for the *Chief Justice* to be *Judge* of the *Admiralty* in several *Colonies*; and that the *Attorney* should be *Advocate.* The first being propos'd to *Mr. Atwood,* with a desire that he would think of a fit Person for the other: After a disapointment of the first Person thought of by him, 'twas his misfortune, trusting others for *Mr. Broughton's* Character, to recommend him; and to stay so long, before that Name so little known in Business could Pass, as to lose the opportunity of having the 500*l.* a Year settled, before his *Majesty's* going abroad: which obliged him to take 300*l.* a Year, or to decline the Service after he had been too far engag'd.

In the meanwhile the *Earl of Bellamont* dyed, to the unspeakable Loss of the *Province:* and *Mr. Nanfan* the *Lieutenant Governor,* being then at *Barbadoes,* the Government, according to the [4] Commission from the Crown, was vested in the *Coun-*

cil. But *Col. Smith*, tho' before put out of the Office of *Chief Justice*, continued the first of the Council; and by the Advice of *Bayard*, and that *Party*, who never were for a legal Government; *Col. Smith* pretended as *President*, to have the *Authority of Governor;* in which being justly opposed by the Majority of the *Council*, animated by *Mr. Weaver;* that *Gentleman* was never to be forgiven by the *Faction* against the Government.

Of the Government in the Council, and Col. Smith's *Usurpation.*

The Disturbance occasioned by *Col. Smith's* groundless Pretension, ended by the coming of *Capt. Nanfan*, whom that Party greatly laboured to bring to their measures; and so far prevailed upon him, as to permit them a new Struggle upon dissolving an *Assembly* of which one *Mr. Governeur* was Speaker, whom they represented as an *Alien;* though upon that Question, arising while the then *Attorney General Graham* was *Speaker*, 'twas justly and regularly determined, that he was within an Act of Naturalization.

Of Mr. Nanfan's *entring upon the Government. Votes of the House of Representatives*, 24 March, 1699.

While they were chusing that new *Assembly*, the *L. Governour* went to the City of *Albany* on the Frontiers against the *French*, to renew former Treaties with the Five Nations of *Warlike Indians* in the *English Interest:* From whom he obtain'd a Present to the Crown of a Tract of Land 800 Miles in length, and 400 in breadth; to which they seemed induced, by the hopes, that, with the Assistance of *England*, they might dispossess the *French* of a *Fort* they had lately built, to command great part of that Country.

Of Mr. Nanfan's *treaty with the Indians.*

Those *Indians*, who have been strict Observers of their Promises, firmly engaged to fight against all Enemies to the *Crown of England;* as they did afterwards, upon being pressed by the *French* to stand Neuters between them and *England;* such Neutrality having been opposed by the *L. Governor* and *Council*, as the ready means to furnish the *French Emissaries* with opportunities to debauch them.

Before the *L. Governor's* return to *New York*, *Mr. Atwood* and *Mr. Broughton* arrived there, after above Three Months Voyage.

Of the Arrival of the Chief Justice and Attorney General.

They were received with great Civilities by *Col. De Peyster*, eminent for his Hospitality and Kindness to Strangers, and by all the *Members* of the *Council* in the place. And publick Entertainments were made for them by Friends to the then Administration; from which *Mr. Broughton* soon withdrew, to gratify those who distinguished themselves by their opposition.

Mr. Atwood at the same time made no distinction of *Parties*, return'd every man's Civilities, and clos'd with the first Proposal of going by Water with *Mr. French*, Mr. Matthews, and other warm Men of that *Faction*, to meet the *L. Governor* in his Return from *Albany*. Being thus entred into their Acquaintance, of which they had given him no opportunity by any Visits, he seemed to share in their good Opinion, till the first occasion of doing Justice to the *Crown*, upon the seizure of one *Capt. Wake's* Ship, which had landed Goods to the Value of 8000*l.* tho' not qualified to Trade, for want of a *Register*. And yet the then *Naval Officer* took the Master's single Bond, in the penalty of but 2000*l.* to produce a *Register* within eighteen Months, or to bring back the Ship to be subjected to a Forfeiture. The Ship returning, *Mr. Weaver* exhibited an Information against it, in the then *Admiralty-Court*; where it had the good Fortune to have a Sentence for its discharge, upon supposition, expressed in the Sentence, that the Bond was a *legal Composition* for the *Forfeiture*.

Wake's Case. Vid. Stat. 7 & 8 W. 3, c. 22.

The Ship continuing under seizure, *Mr. Weaver* had caused another Person to inform against it in the *Supreme Court*, before the New *Chief Justice's* coming: But then, understanding that the Sentence in the *Admiralty-Court* would be a good Bar to that *Information*, he applyed to the *Supreme Court* for a *Prohibition*: Which, upon the Matter being fully sug-

gested by Young *Mr. Atwood*, who was a necessary help to the *Attorney-General*, was granted, *quoad* the *supposed Composition;* and a *Consultation* denyed; upon mature Consideration of Authorities relating thereunto.

From that Sentence the Master appealed to the *L. Governor and Council*, who upon a long Argument made by the *Chief Justice*, without any Assistance from the Attorney, affirm'd it: From that Affirmance, they took out an *Appeal* to the *King* and *Council*, but seem not to have Prosecuted it: However, the *Governor's Commission*, with good reason, providing that Appeals, which either may never be Prosecuted, or at least, cannot be determined, at such distance, without great delays, *shall not suspend Execution;* the *Chief Justice*, as *Judge* of the *Admiralty*, proceeded to condemn the Ship for the Forfeiture manifestly incurred.

These Matters, which were new to them and their Lawyers, gave a loose to such licentious Discourses against those *Judicial Proceedings*, as they had been used to, upon every check to *Illegal Trade:* And other Vessels having been condemned, one for want of a *Register;* and some with their Lading, for other Breaches of the Laws of Trade; the *Merchants* and *Factors* of that *Party*, found themselves so generally concern'd, that they talk'd of ensuring to one another all Condemnations in the Admiralty; and their Insolence in railing increas'd beyond measure.

The Consequence of just Sentences in the Admiralty.

But as the *Judge* in every one of the Cases acted according to Law, which he is ready to make appear; of what consequence such Sentences are to *England*, may be gathered from one Instance of many; in that one of the condemned Vessels, of which a *Scotch-man* was *Supercargo*, had carried from *New Bristol* near *Rhode-Island*, directly to *Scotland*, so much *Tobacco*, as ought to have paid 800*l.* Customs in *England;* and from *Scotland* brought a considerable quantity of their *Woollen Manufacture:* Great part of which, Armed Men of *Suffolk County* in

that Province, noted for such Trade with those of *Boston* and *Connecticut* and as obstinate as any in disobeying the *Laws* of *England*, carried off with a Resolution to oppose whatever Authority would hinder them. And one of their *Magistrates*, who had followed the Example of the chief Influence of that County, and now Pretender to be *Chief Justice*, *Col. Smith*, in taking a considerable quantity of Forfeited Goods to his own use, or for the former Owners; refused to obey the *Admiralty Process*.

The occasion of the Parties joining against the L. Governor.

Whatever liberty that Set of Men took in relation to the *Chief Justice;* the *Lieutenant Governor* seemed to continue in their good Graces, till the sitting of the new *General Assembly*, with which he was thought to have obliged them. *Mr. Nicoll* being proposed for *Speaker* by that side [5] and *Mr. Governeur* by the other, the choice fell upon the latter by one voice; he having *Ten*, and the other but *Nine:* Upon which *Mr. Nicoll*, and the whole Body, presented him for *Speaker* to the *L. Governor* in *Council*, where he was approv'd of; nor did anything appear to the contrary, but that he was chosen as unanimously as he was presented.

Upon their going back to the *House*, Objections being made against *Mr. Nicoll*, and one *Mr. Wessel*, a *Dutchman* by Birth, as not qualified to be chosen, those two were order'd to withdraw till the matter should be determined; and then, but not before, they objected against the Speaker as not qualified; being, as they pretended, an *Alien*.

Vid. *in their printed Votes*, Wessel's *Bond to indemnify the Sheriff for returning him, tho not qualified according to an Act of Assembly.*

The next day, *Mr. Nicoll* and *Mr. Wessel*, not regarding the Order of the House, entred it in an outragious manner with the *Seven* of their Faction, protesting against the *Assembly's* proceedings. From thence they went to the *Fort*, where they desired the *L. Governor* to dissolve the Assembly; and left with him a *seditious Paper* sign'd by them, disowning the Authority of the *Assembly*, for the fictitious Reason

of the *Speaker's* being an *Alien;* which they suggested to be a *new discovery;* tho the contrary was before justly resolv'd by the proper Judges.

At the same time they made large professions of readiness to serve *his Majesty;* which the *L. Governor* desiring them to manifest by their Service in the *House,* when an *additional Duty,* necessary for the Support of the Government, was newly expired; from that time they entred into a *Conspiracy* against him, and the then *Administration;* for the setting of which aside, they were resolved to spare no Money or Artifice.

Immediately after the *L. Governor* had denied their insolent demand of a *Dissolution* of the *Assembly,* he sent for the *Chief Justice* to acquaint him with it: Upon which he, thinking he had some Interest with *Mr. Nicoll,* undertook to endeavour to dispose him to more Temper; but *Mr. Nicoll* declined speaking with him: Yet afterwards, upon an accidental meeting, could not but own he and his Friends had been too warm; but intimated as if they were gone too far to recede.

Two of those who were return'd Members, having been declar'd incapable of serving, and Seven having deserted, Writts issued out for new Elections. They who met at the opening the Writ for *Suffolk County,* (*a*) absolutely refus'd obedience to his *Majesty's Writ,* declaring they would not proceed to a new Choice: For which they had been punish'd as such Insolence deserved, had not *Col. Smith's* interposition prevailed against the *Chief Justice;* who saw plainly, that nothing but the Execution of the Law, could keep that County in a due dependance on the *Crown of England.*

A Person chosen for *Westchester* told the People, (*b*) it concern'd them to chuse such as would *oppose the Council,* and *then they should pay no Taxes.*

Most of those that were chosen upon the new Writs,

(*a*) Vid. *Let. to the C. Justice from the Secretary of the Lords Commissioners for Trade and Plant. by order of their Lordships, dated* 29 Jan. 1701, 2. *The Paper sent by the Sheriff of* Suffolk *County upon the not executing the Writ,* &c. *seems to be an Insolence which ought to be prosecuted with vigor.*

(*b*) Vid. *Two Affidavits of this matter.*

appear'd in the *House*, and were sworn in order to act; but, through the persuasion of the Heads of the *Faction*, join'd in the like Papers: In one of which, (*c*) sign'd by *Col. Willet* and his Son, and one *Tolman*, being a Transcript barbarously spelt, of what the *Heads of the Party* had prepared for them; they say, The *Complaints and Clamours of the People are great;* and *it cannot be expected they should think the Acts of the Assembly binding;* and charge it with acting *against the Rights and Privileges of his Majesty's Freeborn English Subjects*, the Laws of England, *and that Province.*

(*c*) Vid. *Copy of the Paper.*

The Person who had recommended himself to the People's Choice for opposing the Council, penn'd another Paper to the same purpose.

Notwithstanding all the Threats and Artifices of the *Malecontents*, the *Assembly*, consisting of *Sixteen*, went on in the Service of the Publick; continued the additional Revenue for Two Years; out of which, as a Mark of their Esteem for the *Chief Justice*, (*d*) they added 70*l.* a Year to make his Salary there 200*l.;* and made several useful Laws: among the rest, one effectually to oblige a busy *Scotchman*, and Partner with his countryman *Kidd* the *Pyrate*, to account for Publick Moneys, in pursuance of a former Act.

(*d*) Vid. *Let. from the Secretary of the Lords Commissioners declaring their Approbation.*

Mr. Levingston Jamison.

And another no less busy *Scotchman*, *Jamison*, a Practiser of such Law as had pass'd there, who for burning the Bible had been sold a Servant to *New York*, where he endeavoured to propagate Atheism, and exchang'd his living *Scotch Wife* for a *Dutch* one; having been guilty of great Fraud as *Deputy Secretary*, which gave him an opportunity of obstructing a *Patent* of a considerable Tract of Land, and of procuring one to himself and others, of 1200 Acres, where they should chuse, within that Tract; contrary to the Agreement and Purchase made by those who took in *Jamison*, with another Company, excluded from the benefit of that *Patent;* after Jami-

son had been fully heard in Council, and a Paper put in by him consider'd, an Act of Assembly for executing that Agreement, brought up from the *House* of *Representatives*, pass'd with general Approbation.

But the *Chief Justice* having, at the desire of the *L. Governor*, drawn an Answer in writing to *Jamison's* Objections; that insolent *Scot* had the Impudence to impute this to a *Bribe;* and to affirm before the *Council*, That one *Lewis De Wit*, Master of a Sloop, told him he brought from *Esopus* 50*l.* for passing that *Bill*, and that the *Chief Justice* had it, or great part of it: Which the Master has absolutely denied upon Oath.

Vid. De Wit's *Affidavit.*

Jamison also taxed *Col. Rutsen*, a Member of the *Assembly*, who being a Magistrate in those Parts, earnestly press'd the passing that Act, for securing the Peace; with giving the *Chief Justice* a *Fee* upon that account: Which, as the *Colonel's* Letter to the *Chief Justice's* Son has it, is not the first of *Jamison's Lyes:* And yet this Scandal of his invention, is the only ground of the most heinous Article against the *C. Justice.*

Vid. *Col.* Rutsen's *Letter.*

Vid. *the Articles against the C. Justice, Artic.* 9. *That being corrupted by a Bribe, he influenc'd the L. Governor to pass a private Act, &c.*—

While the Acts of that *Session* were preparing, the *C. Justice* having received Letters from *Governor Penn*, and *Governor Hamilton*, of an *Admiralty Case* hapning between their two neighbouring *Provinces*, which required his being at *West Jersey;* the *Attorney-General Broughton* took that opportunity of going with him; where they publish'd their Admiralty Commissions, and were extraordinarily well received by *Col. Hamilton.*

His Residence being within Twenty Miles of *Mr. Penn's* Government, the *C. Justice* could not neglect such an opportunity of paying his Respect to so considerable a Person, who had honour'd [6] him with a Correspondence; and whose Reputation and Prudence had made so wonderful a Settlement in few years, as might well excite any man's Curiosity.

At *Philadelphia* he was not more surpriz'd with the Regularity, Beauty, and sudden Growth of the City; than with that height of Ceremony, as well as Generosity, with which he was entertained by the *Governor*. So far he had the Company of the *Attorney-General*: But by the difficulty in spurring him on thither, and the necessity of leaving him behind for Business at *New York*, the Chief Justice found it impossible to drag him so many Hundred Miles by Land, as 'twas requisite to Travel, for publishing the *Commissions* in *Rhode-Island*, *Massachusetts-Bay*, *New-Hampshire*, and *Connecticut*.

In their short absence in *Pensilvania*, and the *Jerseys*, came on the Election of *Aldermen* for the City of *New York:* And Bayard's Party having excepted against the Returns of *Three* out of *Six*, they applied to the *Lieutenant-Governor* to take to himself the *Scrutiny;* but he would resolve upon nothing till the Return of the *Chief Justice*, who put them upon the legal Method of bringing *Mandamus's*. For which the Heads of them came to him in a Body, desiring, and as they said, relying on his equal Justice. To those *Mandamus's* the City in *Common Council* returned, that the *Aldermen* Objected against, were duly Chosen.

Of the Election of Aldermen for the City of New York.

But the *Mayor Elect* being of the *Faction*, their Counsel having pretended Defects in their first *Mandamus's*, they were gratified in their desire of New; upon which it seems they expected by the *Mayor's* Influence to get Returns to their Minds; or that these might be handles for his Swearing their Men. The Morning that he himself was to be sworn into his Office, he, with the *Recorder*, came to the *Chief Justice*, desiring his Advice, the Mayor declaring that he could not be satisfied to swear those who were Return'd. The *Chief Justice* told him, he was no Judge of the Right, which might soon be Determined in the *Supreme Court*, and that 'twas for the

Note. *This matter is made one of the Articles against the C. Justice,* vid. *Art.* 5. *That contrary to the words of the Charter of the City, and the constant*

Peace of the City, that, in the mean while, they who were Returned should be Sworn. The *Mayor* still pretending Scruples, the *Recorder* observ'd, that by the Charter the *Mayor for the time being*, and the *Recorder*, were to swear the *Aldermen;* and that if the *Mayor Elect* would not be Offended, he and the then *Mayor* would Swear them, before the *Mayor Elect* should be sworn. With this, which the *Chief Justice* then thought, as he still does, agreeable to the *Charter;* the *Mayor Elect* declared himself satisfied, and the *Aldermen* were accordingly Sworn.

usage and practice in like cases, he advised the late Mayor to swear the new Aldermen.

However, by the prevalence of the Faction, the *Mayor* seem'd to scruple Acting with those *Aldermen;* but the *Chief Justice* going to *Boston* and other Parts, the *Mayor* who Dined with him that day, declared he would do nothing in the Dispute till his return. Yet *Mr. Vesey*, the Minister, with others of the Party, going with the *Chief Justice* to the Water side; as *Mr. Vesey* was never good at keeping a Secret, he whispered the *Chief Justice*, that the *Mayor* was resolv'd to be an *English Mayor*, which, as he explained himself, was by Swearing the Pretenders to be *Aldermen*, (tho one of them was a Factious *Dutchman*); the inconvenience of which the *Chief Justice* represented to *Mr. Vesey*, desiring him to give no such Advice: Yet it seems, he and others prevail'd on the *Mayor*, by his sole Authority, to controul the return of the *Common Council*, and, without the *Recorder*, to swear those on whom he arbitrarily judged the Election to fall. And thus there was a double set of Aldermen, to the no small disturbance of the Peace of the City.

Brand Scuyler.

During part of these Disorders the Chief Justice was at *Boston*, whither his *Admiralty Commission* obliged him to go; the *Deputy Collector* having inform'd him of a seizure of Wines and Brandies, Imported contrary to Law. But the Merchants there not approving of any Judge

Of the C. Justice's dispute with the Superior Court at Boston; and

their usage of the Crown's Admiralty Jurisdiction.

of the Admiralty not from among themselves, applyed to *Mr. Winthrop*, the former Judge, to hold a Court for that purpose; in which he seem'd more forward than became his near Relation to the Parties concerned.

Note. Levington's *Son, who was part Owner with his Son-in-Law, Capt.* Vetch, *had married the natural Daughter of Mr.* Winthrop's *Brother.*

But the King's Advocate *Mr. Newton*, as became one of his Discretion, and Zeal for the Service of the Crown, refused to prosecute before him.

This failing, as the *Deputy Collector* had too great a Dependance on the Merchants there, he to please them, as of his own Authority, caused an Appraisement to be made, and delivered the Wine and Brandy to a *Scotch*-Merchant, concern'd for the Importers directly from *Quebec*.

The Collector pretended to have sent the King's third of his Appraisement to the Custom-House in *England*, but the Government there, being too Indulgent to such Trade, never insisted upon any share in the Forfeiture.

Mr. *Atwood* being desirous to avoid any Controversy, and yet to prevent the like encouragement to the violating the Laws of Trade for the future, proffered to allow the Officer to be Informer in the Admiralty Court, and to accept of that Appraisement if he would produce it; which he absolutely refusing to do, and standing in *contempt* of the Court, *Mr. Atwood* passed Sentence, charging him with the Wines and Brandies as by Law in his Hands, and committing him till he should perform the Sentence.

Upon this he preferred a scandalous Petition to *Mr. Winthrop* and the other Judges of their Superior Court then Sitting. Who treated the Judge and his Commission very contemptuously, not suffering him to speak unless he would go off from the Bench, where other Strangers stood: And tho they ventured not to grant a *prohibition*, made an Order, giving the Officer the *protection* of that Court, till they should consider

of what was within a Jurisdiction, excepted out of their Charter.

The unreasonableness and illegality of which Proceeding, is set forth in a large *Memorial*, left with them; Copies of which were by the first opportunity transmitted to Mr. *Secretary Hedges*, the Lords Commissioners for Trade and Plantations, and the Commissioners for the Customs here. Vid. *the Memorial.*

Zeal for the Laws of *England*, and the Service of the Crown, having obliged him to this method, and to reflect upon a *Preacher* at *Boston*, who encouraged men in that illegal Trade, which has been too common there, by maintaining in publick Company, against a *Learned Divine* of the *Church of England*, that they were *not bound in Conscience to obey the Laws* of England, *because they had no Representatives there of their own chusing;* the Judge's necessary Freedom in exposing an [7] Opinion so ill Founded, and so Dangerous, greatly encreased the number of those, who took all occasions to inveigh against him, as a destroyer of the Trade of those Parts, by a too rigorous enforcing the Laws of *England:* the Members of which Church there, shew'd a great Affection to those Laws, and Regard to him.

At his return to *New York* he found the City in a Flame, between the *two sets of Aldermen:* the Faction would have taken to themselves the Determination of the Right; and *French*, being *Foreman* of a Grand Jury, would have anticipated the Judgment of the Supreme Court, by Presentments made by him and his Party in the *Jury;* one of which presentments declares their Friend chosen by [a Majority of Voices] another they will have to be chosen [by a Majority of the People]; which presentments were, upon motion made by Counsel, quashed for Incertainty; there being no mention of any Right to chuse.

Of the Return from Boston, *and proceedings in relation to the two Sets of Aldermen.*

Note, *This the 6th Article against the C. J.*

The *Mayor*, with the *Aldermen* of his Choice, did all they could to decline the Justice of the Court; but being obliged to submit to it, that Party was so enraged against the *Chief Justice*, that as the *Minister* inform'd him, those few of them who us'd to receive the Sacrament, declared they would absent themselves, because the *Chief Justice* was a *constant Communicant*; yet soon after expressed themselves satisfied with his equal Justice upon the actions for false Returns, of which they had gained Two out of Three: but one of them was by an Artifice, not discovered till afterwards; and by an unheard-of Barbarity they were likely to have gain'd the Third, or plainly to have Murder'd those *Jury-men* who would not comply: for each side having by consent named Six to serve on the Jury, the Twelve so Named, having withdrawn to consider of their Verdict, the six chosen by the Plaintiff, prevail'd over the others in the choice of an House: and tho a Majority of the Electors soon appeared to have been for the Defendant, those Six held out some Days and Nights with much Vigor, while the others were Faint and Languishing, and suffered the utmost extremities; till one of the *Confederates* was discovered by his Breath to have lately Drank; which occasioned the search in a private Closet, where Provisions were found conveyed from the under Room, by the lifting up a Board kept loose for that end.

Note, *The Jury having agreed that the Election was in the Inhabitants paying Scot and Lot, the Collector of that Ward had cross'd several of that side who never paid.*

This being discovered, they who were guilty of this Treachery to the rest, soon agreed with them in a right Verdict; which was a plain conviction of the gross partiality of their Friend the Mayor, who had ventur'd a Premunire to serve them.

Thro' the fraud of the *Collector* of the Taxes of one of the *City Wards*, who counterfeited a Majority of *Scot* and *Lot* Men, the *Mayor* had Three Aldermen of his side, out of Six. And Three being enough by their Charter, to assist him in the disposing of the

Freedoms of the City, he had proposed to the *L. Governour* the making all the *Soldiers in Garison free.* But the *L. Governor*, tho he was not then aware what further use the *Faction* had of the *Soldiers*, besides strengthening them at Elections; yet knowing how destructive this would be to the Privileges of the Citizens inhabiting *New York*, declared his dislike of the Project, and that if the *Soldiers* were made *free*, he would remove them from the place when Elections came on. However, the *Faction* were determined to this; and to represent themselves as the most numerous, resolved upon drawing the *Soldiers* to join with them, in their contempt and disowning of the then Government.

Of the proposal to make the soldiers free of the City.

Which they supposed they might do with safety, being in constant expectation of the *Lord Cornbury's* coming *Governor*, and fully assured from their Old Friend *Honan* and others, that his *Lordship* was fully engaged in their Interest.

Bayard, with the Advice and Assistance of *Colonel Smith*, with two more of the *Council*, and of *Jamison*, and other Practicers of the Law, prepared Three Papers, one of which was an Address to His then *Majesty*, another to the House of Commons, and a third to the *Lord Cornbury*.

Of the Addresses Prout Sam. Bayard's *Let.* 29. Jan. 1701.

The Last was chiefly a Compliment, giving him assurances of assisting him in the Support of the Government; while they were far from Professions of Duty under the then Administration. And tho' they speciously express a desire, *that the name of Party and Faction may evanish;* their Actions while in Power, show their meaning to be according to the *French Conversions*, or the *shortest way with Dissenters*, proposed by one of their pacific Temper.

Note. *This Jamison's Scoticism.*

The Act of *Parliament* in *England*, declaratory of the Rights and Liberties of the Subject, having condemned the Committing and Prosecuting the *Seven* Celebrated *Bishops*, for

Stat. I. *W.* & *M. Ses.* 2. *c.* 2.

humbly petitioning to be excus'd from concurring to the Power assumed of *dispensing* with, and *suspending* of Laws; declares it to be *the right of the Subjects to petition the King*, and that all Commitments and Prosecutions for *such petitioning*, are illegal. Thro' a false Construction put upon this, by the *New York Lawyers*, without any regard to the subject matter, which was only petitioning as such, humbly, and without Faction, or Matter justly censurable; the *Malecontents* there, were encouraged to act as if this Legal Liberty of petitioning the *King*, extended to any manner of Petition, however procured, and with whatever Multitudes; and that not only to the *King*, but to the *House of Commons;* tho not named in the Act.

Note, *The C. having observed the wrong Construction put upon that Act, that it mentions only Petitions to the King. and that all things lawful in* England *are not in the Plantations, where the King governs more by Prerogative than in* England; *In their 23d Article they falsely make him to have declared it a Crime to Petition the House of Commons, in the Plantations. Which yet their Print,* f 16 *qualifies with* [it may be] *But omitting the Comparison of the Plantations to* England, *makes him say* [where the King governs by his Prerogative], *wherein they grossly pervert what he said.*

Through this inexcusable Ignorance of the Law, they stuff'd Addresses to the *King*, and *House of Commons*, with the most libellous and seditious Matter, that their malice could invent.

They were taught to believe, that because of the direction of the Libels to the *King, and House of Commons*, tho possibly the intent might be no more than to spread their Venom, under such a Pretext; the Government there was obliged to leave it to its natural effect, and could have no judgment of such a method to subvert it, till it had been condemned in *England:* Which Doctrine, if it should obtain, would soon destroy the *dependency* upon the *Crown*, maintain'd by preserving the legal Authority in those Parts.

[8] The *Conspirators* thinking themselves at entire Liberty, at least, not to be restrained or punished by any Authority there; with the most inhuman Insolence, trampled on the Ashes of the late *Earl of Bellamont*, and represented a *Governor* in great Esteem with his then *Majesty*, the (*a*)

(*a*) Vid. *their Letter sup.* 25. Octob. 1698.

Lords Justices of England, the (*b*) *Lords Commissioners for Trade and Plantations*, and the *English* Nation in General, as the worst of Men: All his Pains for the good of the *Province*, in keeping it in due Subserviency to *England*, and in endeavouring to bring to justice the chief Authors of the Irregularities, and Mischiefs, which reigned there, they blemish'd with the foulest Aspersions; scandalizing him, as if all his Actions were aim'd at his private Gain, and setting up a *Dutch* Interest against the *English*; and by the assurance with which such Lyes were propagated, several were grossly imposed on to believe strange things.

(*b*). Vid. *their Let. to him*, 11 Feb. 1700. 1.

They treated the Administration while *Mr. Nanfan* had the Power of *Governor*, not only with the last contempt, but as no Government. In one of their Libels, they say of that time, his Majesty's Subjects within the Province were *oppressed*; and yet could not assign one instance of *Oppression*: They say farther, after taxing the Assembly with granting the Governor a Sum of Money to *tempt* him to keep them together, and a Sum of Money to the *Chief Justice, to find Law and Form* for their Bills and Proceedings; that [thereby] the *Government was rendred vile and cheap in the eyes of the People.* The Chief Authority under the *Crown*, vested in the *L. Governor* and Council, with the Representatives of the People in a General Assembly, they inveigh'd against as null and void; and their Acts as *destructive* of the *Properties*, Freeholds, and Inheritances of the Subjects. With these, and other scandalous Untruths, they corrupted such as they could influence, and incited them, not only to refuse paying Taxes, and obeying any Law of that *Assembly*; but to cast off that Authority which they laboured to render *cheap*, and to rob of that esteem which should guard it.

Vid. *the Indictment, and* Crannel's *true Evidence. In their Print*, f. 15. *they represent him as using the word* Hardships. *So* f. 13. in Richardson's *Evidence.*

If such Matters are to be thought trivial, and not to deserve the utmost severity of Law; it must be agreed,

that they who are concern'd in the Administration of any Government, are much to blame, if they prefer the *publick safety* before such *liberty* in private Persons.

The outragious *Matter* of those Papers, was ev'n exceeded by the *Manner* of getting Hands to support them.

A considerable Number, far above *Twenty*, were drawn in to sign those attempts (*a*) to *alter Matters establish'd in the State;* and that publickly and tumultuously at a *Coffee-house*, where Bayard and his Son manag'd the Papers, which according to the Son's (*b*) own Account, were signed there by *Lieutenant Matthews*, and two Sergeants: And *Bayard* told one of them, (*c*) *those were the Papers he was to sign.*

(*a*) Vid. *Act* 13. Car. 2. *c.* 5.

(*b*) Sam. Bayard's Let. to Mr. Adderly and Mr. Lodowick, 27 Jan. 1701.

(*c*) Richardson's *true evidence.*

Bayard, having the custody and care of those *Libels*, procured several to sign at his own House; among the rest, a *Frenchman*, ignorant of the Contents, telling him, (*d*) *'twas for the good of the Country:* Numbers of Boys, Inmates and Passengers through the City to *Boston*, or other Parts, were taken in to increase the Muster, and make them seem formidable; and the numbers they magnified and increased in their discourses: accordingly, one of them ask'd the *Chief Justice*, whether the Government could punish *Three Thousand:* Yet without the (*e*) *Soldiers* on their side, they fear'd the Law would be too hard for their Leaders: now therefore was the time, by Strong Drink, and the hire of *Freedom of the City*, (which the Conspirators afterwards procured for the soldiers in a very illegal manner) to list them to strengthen their Party, by such a *Sedition*, as would be likely to drive them to Action to avoid Punishment: And they who had dipp'd them so far, knowing that but few Months before, a *Hundred* of those very Sol-

(*d*) Vid. Hales P. C. p. 14. & 3 Just f. 9 & 10. *Where a Publick and general end or pretence makes Treason of what otherwise would be but Misdemeanors.*

(*e*) Vid. Bract. *Qui machinatus fuerit vel aliquid fecerit in mortem Reges, vel seditionem regni, vel exercitus, &c. To the same purpose* Glanvil & Fleta. *Vide etiam* Stamford *and* Mirror *cap. sect* 4 *per trahissent son post ou compassent de la fair.*

diers had *actually mutinied*, and march'd in a Body under Arms to the *Fort-gate*, which was shut against them; might well think, when they had once engaged them to *libel* against their *Commander-in-Chief*, and that in such a manner as above, 'twould be easy, with a little more strong Liquor to work them up to their avowed purpose, by any means to get rid of a Government, which would not connive at their open violations of the Law, nor strain it to help them into the Saddle.

For this end, Bayard carried the Papers to the House of *Hutchins*, one (*f*) of the *Aldermen*, who having been a *Licutenant* in the *Fort*, and keeping a publick House frequented by the Soldiers, was the most likely man to prevail with them.

(*f*) Hutchins, Bayard's *instrument, with the rest of the Soldiers, besides those who sign'd at the Coffee-house.*

By strong Liquors, with assurances of *Freedom*, which some took to be from the Service, others, of the City, *Hutchins* drew in the Generality of the Common Soldiers. One (*g*) of them swore he set down the Names of *Three* or *Four*, to Lists or Rolls, applicable to any Matter, there being nothing but Names; that he saw the Names of above *Thirty* Soldiers, but that most of the Garison, being about 150 or 160 private Soldiers, had sign'd.

(*g*) Fleming *otherwise than in the print; prout Notes faithfully taken.*

Their Print allows another to have sworn, That *a great many of the Soldiers of the Garison sign'd, and they expected thereby to be made free of the City.* But then they add a Reason of their own, or rather Palliation, *many of them being Tradesmen:* yet in truth, that Witness swore he believ'd (*h*) *all had sign'd.*

(*h*) Tr. f. 15. Garnet's *evidence. Prout the Notes.*

If the framing and (*i*) collecting a *multitude* of Hands to a *Petition* of the *Puritans*, in the time of King *James the First*, with an Intimation that if 'twas not granted, many of his *Majesty's* Subjects would be *discontented*; was in the Opinion of all the *Judges*, with the concurring Resolution of the *House of Lords*, such an

(*i*) Vid. Moor's Rep. f. 756, and Crook *Fac.* f. 37, 38. *for it tended*, &c.

Offence as is *next to Treason and Felony in the Punishment;* because *it tended to the raising Sedition, Rebellion, and Discontent among the People;* What is an actual engaging the Soldiers in *Sedition?*

And what can be thought of their Stupidity, who will not believe all the matter above, truly set forth, *any Offence whatever?*

Or who that duly compares the Fact as above, or as laid in the *Indictment,* and found by the *Jury,* can blame the *Court,* which adjudged it *High Treason,* within the Act made to secure the Establishment of the Government in that *Plantation?*

'Tis certain this *Seduction* of the Soldiers had such an effect, that the *L. Governor* found in them a strong disposition to mutiny: but could not imagine the occasion, till one of the *Council* who got the first light into it, desired the *L. Governor* to examine some of the Soldiers, particularly such as he nam'd to him, what Papers they had lately sign'd. Upon examination the [9] L. Governor found the matter to be of dangerous consequence; upon which he summon'd a *Council,* and appointed the *Attorney-General* to be there to hear the Evidence. He also desired the presence of that truly faithful Servant to the Crown, *Captain Caldwell, Commander* of the *Advice* Man of War.

The Proofs of the matter as above, appear'd undeniable, especially from the Evidence of a voluntary Witness, *Mr. Clous;* who having sign'd the Address to the Lord *Cornbury,* refus'd to sign the others, because they reflected on the *L. Governor,* who had been very kind to him. He by Letter inform'd the *L. Governor,* that he could be a very material Witness; and the other side having had no time to make any application to him, he was then very ingenuous and positive, in several Criminal Expressions set forth in the Indictment.

There is, for certain, great absurdity in the Notion too commonly obtaining, That be the matters alledged true or false, if People think themselves aggrieved,

they ought, in the *Plantations*, notwithstanding their common misfortune of being impos'd on by a few turbulent designing men (who, if not timely prevented, may overturn a Government, before Orders can come from *England*) to be at full liberty in any indefinite number, to express their sense of suppos'd *Grievances;* and that their ignorance of the Law ought to be their excuse. 'Tis far from Reason to say, That because a boundless liberty is taken to accuse a Government, it shall have no Power to right itself, by judging in its own Cause.

Indeed if ignorance of the Laws necessary for the preservation of all Governments, might be pleaded, few men have more pretence to it than Hutchins, who was *Bayard's* Instrument with the common Soldiers.

Hutchins being sent for to the *Council*, confessed the Fact, but pretended he knew nothing of the Contents of the Papers, nor from whence he had them; but referred himself to his Wife, who he said knew more of them than he. She being sent for, declared upon Oath, that she received them from *Col. Bayard*, and gave them about two days after to a *Negro*, but would not own that she knew the *Negro* to be *Bayard's*. 16 & 17 Jan. 1701. *Prout per Minutes of Council.*

The *L. Governor and Council*, considering that *Hutchins*, tho an Alderman, was an ignorant man, whom *Bayard* had engaged through an Interest with his Wife, intended Kindness to *Hutchins;* and therefore, tho in their Warrant they recited the Act of *Assembly*, which plainly made such Practices as he appear'd guilty of, *Treason;* they only committed him, *till he should be deliver'd by due course of Law.* *Warrant for committing* Hutchins, 19 Jan. 1701, 2.

But since he was not committed for *High Treason*, as he might have been, and there wanted no Evidence against him; this, surely, may answer the Objection against requiring him to produce Papers which might tend to accuse himself.

Bayard and his Son being sent for, the Father jus-

tified the matter, upon the suppos'd Right of expressing what they pleas'd in *Petitions to the Crown:* And being asked by the L. Governor wherein he had *oppress'd* him, or the People of the *Province;* said, in *continuing the Assembly*, when as he pretended, the *Speaker was an Alien:* and yet, he well knew that he himself had but the same Qualification with the *Speaker;* and several of Bayard's Faction were upon that very Qualification, judicially allowed Votes for *Aldermen.*

Notwithstanding Bayard's appearing to be the chief Author of that *Treason*, within an Act of *Assembly*, to which he had contributed as much as any Man; yet he, and his Son, who Acted with him, were only bound over to answer their Offence at the *Supreme Court*, as a *Misdemeanor.*

Prout Minutes of Council 17 Jan 1701. 2.

About this time *Mr. Vesey*, who then, with his noted Sincerity, made great professions of esteem for the *Chief Justice;* in discourse with him, not only argued that the *Matter* and *Manner* of these *Petitions* were justifiable, but that it was not safe to Prosecute any upon them, for fear of an *Insurrection*, which he declared that he really apprehended; saying, That those Men had no Sense of Religion. Which Apprehension, considering how much more Numerous and Strong they who stood by the Government were, than the *Malecontents*, could have no Foundation, but in the Knowledge, that the Soldiers were engaged to support the Faction.

Mr. Vesey's endeavour to discourage the Prosecution.

How necessary soever 'twas to put a timely Check to this growing Danger, such was the Temper of the *L. Governor and Council*, that they intended no farther Prosecution than for *Misdemeanor;* till, after frequent boasts of the Numbers engag'd to assert the Petitions, *Bayard French*, and *Wenham*, with *Ripvandam*, whom they halled along with them, as Heads of the Party, on *behalf of themselves, and some of the rest of the Freeholders and Inhabitants of the Province*, came to the *Council* with an insolent

Vid. *Petition.*

demand of Hutchins's Liberty; under Colour of a Petition, which, though directed to the *L. Governor and Council*, as was justly observed, in effect disown'd the Governor's Authority to Govern; they having named the *Lord Cornbury* as immediate Successor to the *Earl of Bellamont* in that Government.

Note, *The C. J's Observation of this, as one ground for committing them they improved into an Artifice against him, if he declared this to be an Overt act within the Indictment, which has nothing of it.*

They say, *Hutchins* could not deliver the Copies of the *Addresses* enquired after in their *Hands* and *Custody:* and till better advis'd by their Counsel, *Mr. Emmet*, they would have undertaken to *justify them;* but were prevail'd on to express themselves more discreetly, as if they only hoped *to make good the Legality of the Addresses.*

Being severally without effect required to produce the Copies of the Papers, which they had thus officiously own'd to be in their Possession, such was the *Moderation* of the* *Council*, that they gave them time to consider till the next D'ay; when they Appear'd, and still persisting in their refusal, had further time given them, which was lengthned to Three of them for several days. And yet, upon their being peremptory, they were not all Four committed for this *contempt of the Council*, and *concealing the King's Evidence* against others; but *Three* of them were bound over to the next *Supreme Court;* and only *Bayard* the *Ringleader* was committed: and if his Crime were Treason within a Law of the Country, as it plainly was, they who now censure the *Governor* and *Council* for too much Rigor, would have contemned them for their Timidity, if his Commitment had been for less than what his Crime was in the Eye of the Law. Though the *Governor* and *Council* fear'd not to do their Duty; yet when the Darling of a Faction, which if their *Spiritual Guide* is to be believed, regards no Laws of God or Man, was Committed for *High-Treason*, in which he had involv'd the *Soldiers* in the Garison; no man can

* *Prout Minutes of Council*, 20, & Jan. 1701.

justly [10] blame the prudent Order [they made, for part of the *City Militia* to guard the Prison, till it might be found how the Ferment wrought.

These Methods had such effect as generally there is, when Governments boldly attack'd, at the beginning exert that Authority with which the Law invests them: all the *Coffeehouse* Threats, and Boasts of Numbers, vanished: and then, even the *mighty* Hector Mr. French, endeavoured to recommend himself to those who were in the Administration, protesting that he had never sign'd the *Libels:* And this though, but a little before, he had by way of Threat, told the Council, *they should see the Papers one time or other;* but that *the method of forcing the Papers from them, looked not like Liberty.*

Prout Minutes 21 *Jan.* 1701.

It must be own'd, that the *L. Governor*, tho he had no Opinion of the *Attorney-General's* Law, having greatly suspected his byass against the then Administration; to try him, by a Letter desired his Opinion of the obstinate refusal of *Bayard*, and others, to deliver the Papers in their Custody, which provoked and necessitated that legal method, which was most likely to be effectual for preserving the Government, at least from falling into contempt; The Attorney in his Answer to that Letter, used Expressions so apparently not his own, that he was pressed by the *L. Governor* to discover who penn'd his Opinion: wherein he was made a Tool to justify that Address, tho no question was put to him concerning the Nature of it; and further to declare it as his *Judgment in Law*, that their refusal to deliver the other Addresses or Copies of them, was not *such a contempt to the Council*, or *other offence, for which they might legally be committed.* Being ask'd what reason or Authority he had for his Opinion, and giving none; while the *Chief Justice* cited *several authorities* to shew the

Of the Attorney-General's light opinion of a contempt of the Council.

Vid. *Minute's of Council* 21 Jan. 1701. 2. 1 *Rolls Rep.* f. 134. 219. *Hob.* f. 114. *Stamf. l.* 2, *c.* 18. 72. 6. *Rolls. Abr. Tit. Prerog.* 212. *n.* 5. *Citing Rot. Parl.* 25 E. 3.

lawful Power of the *King's Council*, and that every Court had Power to commit for a *Contempt*, which the Attorney admitted this to be; it occasioned a Censure of him to be enter'd in the Minutes, that *he had not discharged his duty as Attorney-General.*

Upon which his new Advisers prevail'd on his ductile Nature, to transcribe their Dictates in a Letter sent to *England*, wherein he intimates, that he was to be *suspended* for an *Opinion*, which he most falsly represents as an Opinion upon the Addresses to the *King*, the *Parliament*, and *Lord Cornbury*; renders the disorders as in no measure occasion'd by the Matter and Manner of procuring such a *multitude* of hands, and among them, no small number of the *Soldiers*; but by the imprisoning *Bayard* for *High Treason*; when the *Fact*, as he basely suggests, was *only for Signing those Addresses*, Being so ignorant, or worse, as to make no difference between a man's single signing, and procuring Multitudes, even of *Soldiers*, to sign *Libels against a Governor.*

The Attorney's false and scandalous Letter sent to England.

He as basey insinuates, as if the Prosecution was, because they were *Churchmen of the English Party; for*, says he, *so it is our misfortune to have our distinction from the* Dutch, *who are the other Party, and would keep* [us] *under, having for some time had the Smiles of the Government here upon them.*

This [us] plainly shews the Party concern'd in dictating that Letter; nor is it improbable that *Mr. Vesey*, who is full of his own Praises, added this;

"I fear the *English and Church Party* here, which "is very considerable, and worthy to be encouraged "*in a Heathenish Land*, and under the Doctrine of a "*Minister of exemplary Learning and Piety*, have "been much misrepresented in *England*, by the daily "Aspersions are cast upon her, *and myself for having* "*society with them.*

According to their usual way, of calling all who are not engag'd in that Party, *Blacks*; the whole Land,

except their *little Flock*, is accounted *Heathenish;* all of the *Dutch Church*, the *English* in the several Counties, who are generally of that *Church*, in which *Mr. Vesey* was bred, and even the Chief of their own *Faction*, the *French*.

But the *Earl of Bellamont*, and they who were in the Administration in his time, and since, till the coming of the *Lord Cornbury*, are not to be own'd of the *English* or *Church Party*, tho the most zealous Asserters of their Rights, and the most constant Communicants. *Mr. Vesey* well knows, that himself assured the *Ministers* of the *Church of England, at Boston*, that the *Chief Justice* was in the Interest of the *Church*, and best able to serve it, of any man in those Parts.

As to *Mr. Vesey's Learning*, 'tis no secret, that he went raw from the *Boston* University of *Dissenters* from the *Church of England*, and was among them bred up to a popular way of Preaching, in which his Schoolboys Memory, and heated Fancy, gave him a reputation for his Talent at Invectives, which then were against the *Church of England*. If his Piety were exemplary, 'twould have shewn itself in conquering his Spleen; to say no worse. They of his Congregation, who call themselves the *English and Church Party*, are so few, that they can't name Ten *Englishmen* of any Note, besides Persons in the Government, who us'd to receive the Sacrament there: 'Tis certain, neither the late *Mayor Noell*, nor the new one *French*, ever did. But no man, without being well acquainted with the *Attorney General Broughton*, could think him so weak, and so little conscious of his failings in every respect, as to believe himself *aspers'd*, for keeping Company with them who would exclude all others from the *Church*, and their just Claim to be *Englishmen*. Indeed, as he has no more Government of himself than of his Family; his being too often overcome with Liquor, as well as with their Perswasions, has been matter of great pity: But the

Censures upon him were for his stupid Neglect of the Business for which he was sent, and not putting his poor Abilities to the stretch.

Yet if it is his own, it must be agreed he has shewn a Masterpiece of Invention, making the *Lieutenant-Governor* and *Council* to joyn with the *Dutch*, to keep under the *English* and *Crown Party*; while he places at the Head of that Party, *Bayard*, a *Dutchman*, who receives the Communion only in the *Dutch Church*; and by his *Occasional Conformity* with the *English*, may fall within the Objections against the *Occasional Conformity of Dissenters*.

The *Governor* and *Council* being intent upon their Duty, while the *Attorney* was asleep, or drinking with the *Conspirators*; found that numbers of ignorant People who had been drawn in by *Bayard*, and his Accomplices, meant no harm; and believing that one or two examples might put a check to that Insolence, which would otherwise soon have grown too strong for the [11] Government; issued out a (*a*) Proclamation, to assure men that none but the *chief Promoters and Encouragers* of that *Sedition*, should be prosecuted; and soon after (*b*) another, declaring that only *Bayard* and *Hutchins* should be prosecuted for *High Treason*, and no more than *French*, *Wenham*, and *Ripvandam* for Misdemeanor; giving the last time to make his Submission; within which he prudently prevented a Prosecution.

Proclamation to quiet to minds of the people.

(*a*) *Proclam.* 2 *Jan.* 1701. 2.
(*b*) 10 March, 1701, 2.

Mr. Vesey, who was far deeper in with them than became his Function, finding that no Perswasion, or Artifice, could prevent the proper Methods for keeping the Government from being overturn'd and trampled on; and that *Bayard*, who to promote his Ambition of being *Head* of *a pretended English and Church Party*, us'd to come to the *English Church* one part of the day, and as has been said, to supply *Mr. Vesey* with Beer; openly in his Pulpit inveigh'd against the Proceedings

Of Mr. Vesey's assuming a Power to condemn the Legal Proceedings.

of the Government as contrary to Christian Moderation; as a temporal Motive to yield to the Faction, intimated an approaching Change; and and not trusting to the *Church Weapons* of *Prayers* and *Tears*, conjured up *Hell-fire* against those who *sent their Brethren to Prison;* nor did legal Proceedings escape the Name of the highest Injustice.

Mr. Vesey's *words of King* William. Note. *Mr.* Vesey's *Father stood in the Pillory at* Boston, *for saying in* King William's *Reign, he knew of no King they had, but King* James.

As a Key to such his *Preachments*, he in discourse with the *L. Governor*, declared, 'twas better with the *English* in *King James's* Reign, than in *King Williams:* But, says he, this *Dutch King won't live always.*

This was occasioned by the *L. Governor's* refusing to put off the Tryals of Dutch *Bayard*, and *Hutchins* an *Englishman*, in Understanding Subjected to *Bayard.*

Mr. Vesey's Sollicitations proving Ineffectual, application was made to one in a Neighbouring Province, who had, at least, the Name of *Governor;* he being a Gentleman of much Address,* writ Letters to several to disswade the Prosecution, in such manner as he thought most suitable to the Persons. The *L. Governor* and one of the Judges were told strange Stories of the sense of other *Provinces;* as if not staying for the *Lord Cornbury's* coming, *look'd like haste to do a job;* that the Act, on which they were to be prosecuted, was so absurd, that every *Trespass* would be *Treason* within it; that to execute any man upon it, would be *Murder:* And the Letter which was in that Person's Name, assur'd the *L. Governor*, that *both his Person and Reputation* were in *jeopardy.* Indeed, he writ to the *Chief Justice* in a Stile so different, and so agreeable to that good Breeding and Sense, of which that *Gentleman* is Master, that the *Chief-Justice* could not well believe the other Letters came from the same Hand.

** Of Letters to dissuade the Prosecution.*

The Tryals going on, the *L. Governor* well knowing what were the Abilities of the *Attorney General*, offered to have Fee'd the *Chief Justice's* Son for the

King; but he chose rather to take the *Prisoner's* Fee, with the approbation of his *Father*, who propos'd the making *Mr. Weaver Sollicitor General*, to supply the defects of the Attorney. *Mr. Weaver* was very averse from it; but yielded to the importunity of the *L. Governor* and *Council.* And if he or some other fit Person had not undertaken that Service to the *Crown*, the *Prisoners* must have been acquitted, upon an *absurd Indictment*, foreign to the Proofs, drawn by the *Attorney;* whether wilfully or ignorantly, it may be difficult to determine.

Of Mr. Weaver's being made Sollicitor-General.

Note, *This an Article against the C. Justice.*

The *Chief Justice* thought it not improper in his Charge to the *Grand Jury*, to exhort them not to be deterred from their Duty, by vain threats of *Hell-fire;* and could not help *Mr. Vesey's* taking to himself the Quotation of that place in *St. Jude*, where the Apostle threatens *Hell-fire to filthy dreamers, who despise dominion, and speak evil of dignities.*

Notice in the charge, of vain Threats of Hell-fire.

While the *Grand Jury* were considering of the Bills against *Bayard* and *Hutchins*, a Discourse arising between the *Chief Justice*, the *Attorney*, and *Sollicitor*, concerning the Act on which the Prisoners were indicted; the Attorney own'd he had not read it; and being asked by the *Sollicitor*, whether, having a considerable Salary from the *Crown*, he could not afford to lay out *Seven or Eight Shillings for the King's service?* he weakly answered, *he must maintain himself and Family with it for the King's service;* declaring he had receiv'd no Fee in any private Cause, but at his first coming. Within few hours after this, he being overtaken with what he, by a gentle *Meiosis* call'd a *Simming in his Head*, and, as it seems, forgetting what Company he was in, after the *Chief Justice* had retired, began the *Prisoners healths* to one of the *Judges:* And yet but a

Of the Attorney's shameful neglect of the King's business, and partiality against him.

150l. per An. *in* England. 70l. per Ann. *at* New York.

(a) *Of the Complaint by the Attorney and Solicitor against Four of the Grand Jury; and their dismission.*

little before (*a*) he had been with the *Sollicitor* to open the King's Evidence before the *Grand Jury*, and joined with the *Sollicitor* in complaining of *Four* of the *Grand Jury*, who would not suffer them to go on with the Evidence; and clamorously insisted upon *hearing Witnesses for the Prisoners.*

(*b*) Note, *This is one of the Articles against the C. J.* Vide *tamen to justify this* 20 H. 6. 33. & *Rolls Abr. Tit. Trial* f. 675.

These *Four* being (*b*) duly discharged for their *Misdemeanor*, the rest quietly received the Evidence, and all of them came with the *Foreman* into Court, with *billa vera* endorsed upon each Bill; which was so received, and became a *Record* without any contradiction. After which, Counsel for the Prisoners desired it might be examined, who of the *Grand Jury* was for finding the Fact Treason; who against it; pretending that the Number agreeing in that particular, were less than Twelve. — Upon this, the Attorney General being urged to speak, though not us'd to say any thing for the King, rightly said, *no Averment ought to be received against the Record:* And the *Foreman* as rightly opposed publickly discovering those *Counsels*, which they had sworn to keep secret. The Court therefore held it their duty to proceed upon the *Indictments;* and the *Chief Justice*, as a Point by the by, far from governing the Case, said, they being but (*c*) Inquests of Office, the best Authorities were, that a Majority of *Thirteen* return'd might have been sufficient; besides the fact, out of *Nineteen*, *Fourteen* agreed to the Indorsment; of which, *Twelve* declared that being satisfied with the Fact, they trusted the King's Counsel for the Law.

* *Of the finding the Indictments* 21 Feb. 1701. 2. Note, *their Print owns, that the Grand Jury appearing in Court, the Indictment was brought in by the Foreman, indorsed* Billa Vera, *and the Grand Jury was immediately discharged; nor was any Objection made till afterwards. Tryal. f.* 6.

(*c*) Vid. *Stamford* P. C. p. 131. *Fitz. Abr. tit. Cor. n.* 232. 16. *Assize* pl. 1. *F. N. B.* p. 107. 3 H. 6, I. a. *Cr. Eliz. f.* 751. *Per sacram. probor. & leg. hominum, without mentioning* 12. Note, *In the Articles against the C. J. he is charged with delivering his Opinion corruptly.*

[12] The *Attorney General* having so far contributed to the weakening his pretended *English* and *Church Party*, thought it time to give back.

Of the Attorney's counterfeit-

And therefore his Swimming in his Head, must be improv'd into a counterfeited Sickness, which his wise Son was so forward as to Swear, to his publick Shame.

ed sickness; the Lye rais'd concerning the Solicitor; and Mr. Vesey's Passion.

Thus the whole management of the Trials fell upon the *Sollicitor General*, who having at large opened the Practices of them who opposed the *Revolution* there, and the Laws of Trade; their false Print charges him with saying *he would stand and fall by the Leyslerian Party;* and having mentioned the too great liberty of the Pulpit in matters of Government, *Mr. Vesey* passionately interrupted him; *confirm'd* the justness of the Observation by the folly of his defence; and said he understood there was an intention to *suspend* him, which he hop'd for; but was calmly told by the *Chief Justice*, there were more effectual ways of dealing with Clergymen, who took too great Liberties with a Government: which has been interpreted such a *severe Menace, as forc'd him to leave the Province for fear of his Life.*

Artic. 29.

It appear'd in Court, that private Applications by warm Men of the Party, had been made to several in the Pannel of the *Petty Jury;* and that *Bayard* the Son, had entreated one of them to appear and be favourable to his Father, who thought himself sure of chusing *Twelve*, most of which had been concern'd in those Papers, and others privately engag'd to acquit him; but both he and *Mr. Nicoll*, then his Counsel in the Room of young *Mr. Atwood*, who had never declin'd assisting the Prisoners, seem'd surprized at the plain Authorities that the King is not oblig'd to show his cause of Challenge, till the *Pannel is perus'd*, and there appear a defect of *Jurymen*, without those who were challeng'd for the King.

Of the Petty Jury. No notice of this in their Print.

Though *Eighty* were return'd, of whom the *King's Sollicitor* challenged about *Twelve*, *Bayard* challenged but *Seventeen*, and declared he thought the *Twelve* whom he had chosen to be Men of Conscience.

Vid. *Hales P. C.* p. 259. *Cook's Tryal f.* 7. per *C. Justice* Treby. The Challenges.

The Jury finding the Evidence to come up to the Indictment, as the Court did the Indictment to the *Act* on which he was tryed; a Paper in Arrest of Judgment and other Matters, which, of Favour, they had leave to speak to afterwards, being duly considered; Sentence of *High Treason* pass'd upon *Bayard*; wherein the *Chief Justice* with a Christian Compasion, endeavoured to bring him to a sense of his Guilt, in *disowning and endeavouring to subvert* the *Authority which God had placed over him*; and particularly upon the Heinousness of *drawing in the Soldiers* into a seditious Combination against their *Commander* in chief; and could not but observe it, to be great *obstinacy* in him, not to own this to *be any Offence* at all. But as *Bayard* in the account he gives of his own Trial, with the assistance of *Jamison*, endeavours throughout to make the *Chief Justice* speak little, if any thing to the purpose; and yet after their either *Dutch* or *Scotch* Dialect; they make him say he was sorry *Bayard* was so *impenitent* [*of*] *his Crime.*

Of the Conviction and Sentence.

Note, 100 *Guineas were offer'd the C. Js. Son, to procure an Arrest of Judgment.*

Tryal f. 16.

That the Court was not, as had been suggested, *in haste to do a Job*, but acted with great calmness and deliberation, appears in that, though the Trial began the *Second* of *March*, Sentence was not given till the Sixteenth.

16 March 1701, 2.

Soon after *Bayard's* Sentence, his Instrument *Hutchins* was tried for the same *Treason*, and convicted; upon which he fell so very ill, that several days pass'd before he could be brought up to receive Sentence; which being pronounced, he immediately petition'd for a *Reprieve* owning his *Offence*, and that he had been *ensnared*, as his Expression was; with which he often in Prison had reproach'd *Bayard*.

Of their Confessions.

Yet *Bayard* still continued obstinate, trusting to the large Offers made by his Son, to the *L. Govcrnor*, if he would Reprieve him, without being obliged to confess any Guilt; or else to the daily

expectation of the arrival of the *Lord Cornbury* (with which his Son and others buoy'd him up to prevent his Submission); and if not relieved either of those ways, that he should be help'd to make his escape: and the Party had given him some proof of their resolution to serve him, in cutting down the *Gallows* on the Common, near a Publick Drinking-house, kept by his Friend, *Lieut. Mathews.* At last, they thinking his Confession would be a great Blow to the Faction, and finding that he was wiser then to dye for them, resolv'd upon breaking open the inward Door of the Prison, the outward being left open. This was to have been Executed on a *Sunday Night*, but hapning to be discover'd, a Guard of Soldiers prevented them: which according to his own Apology for his Confession, occasion'd his complying with the reasonable demand, that he, who could not deny the Facts lay'd in the Indictment, should own himself Guilty of an Offence; which after several Equivocations he did fully, and in expressions beyond what was required of him.

Note, Sam. Bayard *told the L. Governor, if he would not take Money, one was coming that would.*

Vid. De Meyers *Affidavit.*

Vid. *Trial f.* 32. *He calls this a false information of Conspirators against his life.*

The known Resolution of the Government, as it drew many to labour not to be thought of the First Rank of Offenders; seem'd to have quieted the most refractory of the Men; but the Womens Tongues were not to be restrained: and such a mortification to that Party having been imputed to the *Chief Justice*, they publickly threatned, that he should soon be in *Bayard's* Place, and suffer in his stead. Notice of which being taken, and mention made of a proper cooler for that heat in the Tongue, they took care to triumph over the *Ducking-stool* as the Men had over the *Gallows.*

The *Sunday* after Sentence given against *Bayard*, some of the *Heads* of the *Party* met at the House of hot-headed *Tudor*, who from a *Dancing-Master* had been advanced to the Practice of the Law, and to be *Register* in the Court of *Admiralty;* there 'twas

agreed, or spoken of as a thing certain, That the Judge should be hanged when the *Lord Cornbury* came. And a resolution was taken for those of them who could live abroad, to cross the River the next morning to another *Province:* and that they might represent the means whereby the Government had been preserv'd, as tending to depopulate the Place, and ruin the Trade; they labour'd to perswade some of the most considerable Traders to go with them; but they were wiser than to distrust the protection of a Government, where every man was safe while he kept to the Law.

22 March 1701, 2. *Of a meeting* at Tudor's, *and the flight of the chief Promoters of the Faction.*

Mr. Vesey, French, Wenham, Jamison, Tottle, Barbarie a *Frenchman,** who had been concerned with the *Pyrates* of *Madagascar*, and a few others whom they could possess with their fears, fled together out of the Province. And though *French* and *Wenham* well knew Informations were [13] ordered to be prosecuted against them at the approaching *Supreme Court*, they thus avoided appearing to Informations which the *Attorney*, who had been duly admonish'd for his neglect of the *King's* Business, took care to draw: but he shamefully neglected his Duty in the Case of *Baker*, a *Tavern-keeper*, at whose House the *Cabals* of the *Faction* used to be held.

* Vi. *Let. from the Lords Com. for Trade, &c. to the Lords Justices.* 10.

He was presented by the *Grand-Jury* for these Words of His *late Majesty*, "*King* William *is but a* Dutch *King, and a Nose of Wax, and no longer King than we please.* Which Presentment they desired the Court to cause to be put into Form. The *Attorney*, though order'd to do it, did nothing, nor so much as enquired what Evidence there was for the *King;* and when he came to open the Information, drawn by the *Solicitor*, shew'd, that he question'd whether the Words could be prov'd, saying, "I must confess the words are of an high Nature, *if they can be prov'd;* and immediately sat

Baker's *case*, and the Attorneys neglect of his Duty.

down. The Words were sworn positively by a Witness of good Credit, who, as all the *Jury* declared, they believ'd would not Forswear himself. But one of the Faction, and of so ill Fame, that a *Jury* even of that Party at the same Court, in effect found him Guilty of Forgery, having placed himself for that purpose, being a *Talesman*, through the defects of others, as he went with the rest to consider of a Verdict, took with him a Book of no Authority, which however rightly says, That there must be Two Witnesses in cases of *High Treason*. With a false Application of this, he imposed upon his Fellows, to bring in a Verdict *not Guilty, because but one Witness*. It being discovered, that this his *Misdemeanor* was likely to deprive the King of a Verdict, he, to prevent a Fine justly Threatned, complied with the rest; who all declared, that they had been deceived by the Book, which they obliged him to produce in Court.

Note, *This is made an Article against the* C. J.

This was one of the supposed Arbitrary proceedings of the *Chief Justice*, with which *Mr. Vesey*, and his small Flock of *Malecontents*, who waited at the Seaside for the *Lord Cornbury's* coming, labour'd to create an early prejudice against the Chief Justice. Yet, if *Mr. Vesey* was to be credited, they wanted not that opportunity to prepossess his *Lordship;* that having been done effectually by their *Agents* in *England*. And *Mr. Vesey* being a fit man to be trusted with Secrets, had declared, That they who call themselves the *English Party*, were at last, through his persuasion, come to a resolution to spare no Money to carry their Points; one of which was to remove the *Chief-Justice*, who he said, had *too much Law for the Province*.

The *Representatives* of it, being justly alarm'd with such Rumours, and foreseeing the approaching hazard of the Publick Peace and Tranquility newly setling; thought it necessary, that some Laws should pass, which they suppos'd might be

Of the Assembly's proceedings after News of the Lord

Cornbury's *being at the mouth of the River.* Note, *This is an Article against the C. Justice.*

good Fences to their Liberties, till broken through by such Violence, as could not in its own Nature be lasting, or at least, must soon be stopp'd from *England.*

Finding, that the false Returns of *Sheriffs*, and divers Artifices, by which Ignorant Men were misled, by a restless Bribing *Party*, had made them who ever were against the happy Settlement of the *Province* under the Government and Laws of *England*, near upon a balance with the Body of the People; the *Assembly* thought the News of the Lord *Cornbury's* being at the mouth of the River, ought no more to divert them from adding *Four* to the Number of *Representatives*, of which, *Two* were for the *City* and *County* of *New York*, than the *L. Governor* ought to forbear the proper acts of his Office, while he expected the publication of the *Lord Cornbury's Commission.*

It being well known, that the *Province* would not want *Mr. French*, and *Mr. Wenham*, an *Act* passed, which among other reasonable provisions, *Outlaw'd* them, unless they should appear within a reasonable time prefix'd, and give such Security for their *good Behaviour*, as is there required. To avoid incurring *Outlawries*, though *reversable according to the Law* of England, they gave the Security required by the *Act.* The *Assembly*, to shew their Affection to the *Crown*, continued the Revenue for Two Years longer than it had been granted: *Mr. Champantee*, who had done eminent Services for the *Province*, they continued Agent for Two Years, with 50*l. per Ann.* added to his Salary; made Provisions for small Payments to a *Minister* and *Interpreter*, very instrumental in converting the *Indians;* continued the *C. Justice's* additional Salary for Two Years longer; and provided, that in case he should be sooner remov'd, 140l. *New York* Money shall be paid him out of the Treasury there. And His *late Majesty* having transmitted to the *Governor*, the Petition of *Captain Leisler*, Son to him who headed the Rev-

6 Feb. 1699, *signed* Jersey.

olution, willing it to be recommended to the *Assembly*, in pursuance of which, the *House of Representatives* had, before their former Recess, pass'd an *Act* for paying the Debts of the Government; this pass'd the *Assembly* in that their last Session. 6 Feb. 1699.

The next day after these and some other Laws were Pass'd, and Publish'd, the *Lord Cornbury* arrived, with *Honan*, Dr. *Bridges*, and other such *Candidates* for Places; one of which, as the *Chief Justice* at the same time was inform'd from *England*, had inveigh'd against him, before any thing of the principal Complaints could have been there, and spoke of his Removal as certain. With them Landed *Mr. Levingston*, *Mr. Vesey*, *French*, *Wenham*, and *Jamison*, who, as the *Chief Justice* soon found, had possessed his Lordship with strange Stories of his Proceedings, and father'd upon him odd Expressions, and such as he never uttered. *Of the Lord Cornbury's Arrival.*

Through their management, with *Honan*, who Acted in all Capacities, the Invitation made his *Lordship* by the *Council*, was declined, for one prepared at the Fort; where *French*, and others, openly appeared Masters of the Feast; but, perhaps, sent their Plate thither only for that day's Ornament, not as a Present. *Of the early Slight put upon the Council.*

The Chief Justice having some time before been seiz'd with a violent Fever, which, they who knew not his Temper, publickly ascribed to dread of his Lordship's coming; tho he at the very first took care to satisfy them, that the *Chief Justice* should have no share in his Favour; there not being a *Quorum* of the *Council* in Town without the *Chief Justice*; his Lordship was under a necessity of coming to his Chamber to be Sworn. Even then his Lordship discovered a prepossession to the *Chief Justice's* Prejudice; telling him, he had spoken of his *Lordship* very contrary to the purport of his Letter mentioned above, and that there were, or would be, *Affidavits* of it. *Of his Lordship's prejudice against the C. Justice; and some discovery what was to be expected.*

[14] The *Chief Justice* having often pressed to know the Instance and *Informer;* the Words were then charged upon his Son; and even that soon appeared a *malicious Lye* of *Bayard's.* As yet, his *Lordship* treated the *Chief Justice* with much Ceremony, but declared he had *private Instructions* from some Great Man in *England,* to enquire into his Judicial Proceedings: and though he inform'd his *Lordship* of the (*a*) Authority of Judgments, and the indemnity of Judges acting in their *Judicial Capacity;* his *Lordship* did not conceal his purpose of assuming a Power to himself alone over all Judgments; and would not in any thing regard the Authorities in Law cited by the *Chief Justice.*

(a) V. *West* 2, c. 5. Vid. 1 *Rolls* f. 51. 1. *Mod.* f. 119, 184, 185. *Rolls Abr. Tit. Act. sur case* 92. Q. I. 12. *Rep.* f. 24, 25, 27. *Assize* pl. 16. *Vaughan* f. 138.

He not only countenanced the *Minister* in Preaching against the last *Administration* as a time of *Persecution,* and crying up his *Lordship* as a *Moses,* who delivered them from their *Ægyptian Bondage;* but his *Lordship* after receiving a scandalous *Libel,* read in *Council* against former Proceedings, would allow of no time for hearing the *Chief Justice* upon his *Memorial;* complaining of that and such other licentiousness, as was never before countenanced by any *Governor.* For certain, were it not a thing publick, 'twould hardly be believ'd, that he should so far countenance *Jamison,* in calling the *Chief Justice* (while continuing in the Execution of his Office) *Villain,* as not to suffer Witnesses to be Examined before him to prove this; when at the same time he examined Witnesses upon Oath, of what they pretended to have heard a Man say, to charge the *Chief Justice* with *Bribery;* and would take no notice of one *Graves's* endeavouring to suborn the Man, nor of the Man's having sworn that he knew nothing of the Matter for which they would have had him an *Evidence,* and declaring the same in *Council.*

Vid. Dallie's *Affidavit.*

Yet the *Chief Justice* could not wonder at this, since a little while before, his *Lordship* had taken

great Offence at the *Chief Justice's* Son for contradicting the *Secretary* in his false and malicious Account of the Father's proceedings; and reproving him for calling the late Earl of *Bellamont* Knave, and that more than once.

Nor could the *Chief Justice* expect to be better us'd than the *L. Governor* and *Council;* whose Acts he alone has taken upon him not only to censure, as in the Case of *Col. De Peyster* and *Creuger;* but wholly to set aside, as in the Cases of *Graves* and *Prideaux;* who being inform'd against an Oath, for being concerned in an Insurrection against the Authority of the Crown, and carrying away the Governor in Chains, were committed, in order to be sent for *England;* but absolutely discharged by his *Lordship.*

The first open Evidence what Power he was resolved to assume, was upon the Account of *Hutchins;* to whom the Sheriff had, unadvisedly, given liberty to stay some time at his house, for the recovery of his health; but the *Sheriff* understanding, that nothing could secure him against an Escape, and that the *King's Prisoner* might be taken back, obliged *Hutchins,* much against his will, to return to the Gaol. Of which the Wife having complain'd to his *Lordship,* he sent for the *Sheriff,* and told him that was the third Complaint he had received against him; two of which were, as if there had not been sufficient liberty of access to *Bayard* at all times: Upon which the *Sheriff* going about to justify himself, his *Lordship* said, "*You are very impudent;* go your "way, I'll hear you no more, get you out of my sight; "*I command you immediately to set* Hutchins *at liberty,* "*where you had him, else I'll lay you by the heels.*" Soon after, finding that his Command had not been obeyed, he sent two *Files of Musquetcers* to search for the *Sheriff;* one commanded by *Lieutenant Riggs;* the other by *Lieutenant Oliver:* The last found

Of imprisoning the Sheriff, and suspending him, for not giving liberty to a condemn'd Traytor.

Vid. Isaac de Riemer's *Affidavit.*

him, and carryed him to the *Fort*, where his Lordship committed him to the Guard; and a *Centinel* attended with *drawn Sword*. From thence the Sheriff sent to desire a Copy of his *Mittimus*, but the Return was, that his *Lordship* said he would give none; and after about two hours confinement, the *Sheriff* was suffer'd to return to his House.

Vid. *The Sheriff's Affidavit and* John Hooghlandt's.

This was on the Sunday; on the Monday morning the Sheriff was sent for before *Col. Smith*, *Col. Schuyler*, the *Mayor*, and *Mr. Attorney Broughton*: Appearing, he was bid to answer *Mrs. Hutchins's* Petition, of which he demanded a Copy, but was denied it, and required to answer immediately: Upon which, he having only said, *some things were true and others false*, they dismiss'd him, without examining any Witness while he was present.

Prout Affidavit.

As in such things, his Lordship was for making quick work, a Council being summon'd the same morning, he acquainted them that he had referred the Complaint against the Sheriff to some of the *Council*, and another Person, who had made a Report against him; and said, the *Sheriff* had *disobeyed* his *Commands*, which no *Officer ought to dispute*, *but he alone was* answerable for the Legality or Illegality of them.

Then he declared the *Sheriff* only suspended; the time appointed by the *Charter*, for constituting the New *Sheriff* not being come; but that he would commit the Office to the *Mayor*, who was *Coroner*, and that he might execute it by *Deputy*. Upon which the *Chief Justice* represented the Inconvenience of such a Suspension, for want of the due execution of Writs, and Custody of the Gaol; that he should labour under difficulties in his Office, some Writs being to be sign'd by him, which he could not direct to the *Coroner*, who could act but (*a*) in special cases to be suggested in the Writ; and that the *Coroner* must

(*a*) Vid. 22 H. 6. *b.* *Brock Tit. Proces. n.* 4. 21 40. 49. 63. 70. Latch *f.* 563. *Fortescue cap.* 25. p. 55.

(*b*) *Stamf.* P. C. p. 51.

execute his place (*b*) in Person; for both which Points he cited express Authorities.

Upon this, his Lordship bid the *Chief Justice* take care to do his Duty in his Office: But he was resolved upon this; and the plyant Attorney said, "*his Excellency may appoint what Officers, and give them what Authority he pleases.*" *The Attorney's flattering Opinion.*

The *Mayor* having taken upon him the Office of *Sheriff*, by his Lordship's Order in Council, without any consent of the Board; the *Mayor's* pretended *Deputy-Coronor Wilson*, who had a promise to be made *Sheriff* as soon as the Charter would permit; (from which Office he had been removed by the *Earl* of *Bellamont*, for notorious false Returns to a *general Assembly*, and concealing Pirate Goods); opened the Prison doors, or rather the *Lord Cornbury* did, by illegally freeing them from the Custody of the *Sheriff*; and thus *Bayard* and *Hutchins* were at entire liberty.

Though for less Favour than this, *Captain Nanfan* might have received a considerable Sum of Money; we are to presume his *Lordship* had nothing but Thanks, and that he will account to the Crown for those forfeited *Negroes* which had been *Bayard's*.

[15] And it is not to be supposed, that it was for any private advantage, or from any intention of assuming Power beyond his *Commission*, that he claim'd the Authority of Chancellor, and to pronounce Decrees contrary to the Sense of the Majority of the *Council*; though there, as in the English *Plantations*, they are Sworn to do Justice in the *Court of Chancery*.

Nor can it be thought that he could have any Profit, by not suffering a Bill to be exhibited in the *Exchequer*, to oblige *Wenham* to account for the large quantity of *Elephants Teeth* which he had out of the *Custom-House*; or by stopping Proceedings in that Court against *French*, barely upon his suggestions in a *Petition*, never communicated to any of the Judges.

If 1000*l.* evidently Forfeited to the Crown, should happen to be lost by this means; doubtless, his *Lord-*

ship, or the *Attorney-General*, who wilfully disobey'd *Orders* of *Council* for Prosecutions, and delayed this, and *Wenham's*, on purpose that his *Lordship* might stop the course of Justice; will be so generous as to pay the Queen the 1000*l.*

Or at least 'tis to be hop'd, they will shew themselves such faithful Subjects to Her *Majesty*, as to take care it be timely recovered for Her *Majesty's* use.

Honan made Secretary of the Province.

And yet what can be expected from the *Ministry* of the present *Secretary* of the *Province*, Honan, (for whom a Patent under the Broad Seal of *England* is labour'd) *Col. Smith*, *Dr. Bridges*, *Bayard*, *Jamison*, *French*, *Wenham*, *Faukonier*, and that Incomparable *Statesman* the *Attorney-General?* Can there be *Figgs* from *Thorns*, or *Grapes* from *Thistles?*

It might surely have been thought his *Lordship* would not have exposed his play to all men, by using that *mark'd Card*, *Honan;* whose due Character was to no purpose given his *Lordship* by the *Lords Commissioners* for *Trade* and *Plantations*, to diswade his *Lordship* from taking with him such a *common vouchee* for *Pyrates.*

Notwithstanding many extraordinary steps taken for setting up that *Party*, by which *Honan* used to make the chief Profits of his place of *private Secretary* under a former Governor, they who wished well to the *Province*, were not much alarm'd, while they thought the freedom of the *City*, and *Legislature* of the *Province*, not likely to be invaded.

But when the *Mayor*, at the Command or Recommendation of the *Governor*, summon'd a *Common-Council*, wherein he, contrary to the *Charter*, attempted to make a *By-Law* to give Freedoms to the Soldiers, tho an equal number of the *Common-Council* was against it, and the *Charter* provides that all *By-Laws* shall be made by the *greater part of the Common Council;* yet he

Vid. *Affidavit of this matter. Of the illegal forcing the Sol-*

caus'd a pretended *By-Law* to be entred for that purpose; When no Remedy could be had upon the *Petition* of the half who oppos'd that *Violation* of their *Charter;* when tho the *Governor* had promis'd the *Chief-Justice* in *Council*, that nothing should be done in pursuance of that *pretended By-Law*, 'till the Right were determined; yet by turning out the *Recorder Mr. Governeur*, and putting in the *Attorney*, who as himself has own'd, voted without sight of the *Charter;* he got a Majority for making the Soldiers free; When the *Mayor* and *Attorney* admitted the Soldiers coming in an hostile manner to the Freedoms of the City; and this was known to be in order to chuse *Representatives* to a *General Assembly*, (tho Freedom, without dwelling within the *Corporation*, gave no such Right): Then, and hardly before, the People were apprehensive of such Extremities, as they had not expected from an *English Governor*.

diers into the Freedom, to colour their disturbing the Elections of Representatives.

The true Subjects to his then *Majesty*, could not but fear the influence of a *Clergyman*, who call'd him but a *Dutch* King, and seem'd to wish his Death: But were surpriz'd to find, that no Prosecution for a Fine could be obtain'd against Baker, who was convicted and fined for saying, *King* William *is but a* Dutch *King, and a Nose of Wax, and no longer King than we please.* And were far from expecting equal Favour with others, when that *Revolution*, to which, as the opposite Party confess, the People were *universally inclined*, was call'd by his Lordship a *damn'd Rebellion.*

Of Disaffection to the King.

Note, *His Father stood in the Pillory at* Boston, *for saying in King* William's *Reign, he knew of no King. but King* James.

Tho his *Lordship*, who has no mean Talent for fair Speeches, assured the *Council*, he would take no Characters of Persons but from them, nor would remove any Man till there should be direction from *England;* it soon appear'd that *Honan* and others of the *Cabinet*, prevail'd that all Vacancies, found or made, should be supplied

Of the neglect of the Council and prevalence of Honan, *&c.*

with the most violent against that Authority which had been executed under *King William:* Nor could the Objections of the *Members* of *Council* in the least avail against his making *Col. Willet, First Judge of Common Pleas,* tho inform'd against for going to *Mass* in *Col. Dongan's* time, contemning the *King's Process,* libelling the *Assembly,* and *concealing Pyrate Goods.*

That Power which his *Lordship* took to himself, tho it had render'd the *Council* and the *Chief Justice* useless, did not sit easy, while there was any body in *Council* who durst to be true to their Trust; which his Lordship said was *only to advise, but he was to determine as he should think fit.*

The early discovery of the intention to remove the C. J.

He seem'd for a little while to keep to his Resolution declared in *Council,* Not to remove any from their Offices, till he should receive Orders from *England,* upon sending thither the Charges against them: But soon assured *Col. Smith* at his going into the Country, which he communicated to the Party, who spoke of it publickly, That the *Chief Justice* should be turn'd out or suspended: And indeed, from his first coming, he was treated by them who were in the Secret, as if actually remov'd.

Of the Articles against the C. J.

To colour one of the first Promises to the *Faction,* his *Lordship* encouraged *Articles* to be exhibited, against the *Chief Justice.* And *Jamison,* who had Recourse to his *Lordship* with Papers, seem'd to have taken his Approbation before-hand.

As soon as they were presented by *Wenham, Jamison, Nicoll, Brandt Schuyler, Noel* the Mayor, that false Fellow *Young Woolley,* and others, who would be thought the Principal Inhabitants of the Place, and Representatives of the People of the *Province;* his *Lordship* declar'd, *He was satisfied they had lain under great Oppressions; and he would do them speedy Justice.*

Upon the Chief Justice's application for Copies of

those Articles, and all Affidavits concerning him, his Lordship readily promised them; saying, *God forbid, but you should have Copies of your charge; and that every man should have opportunity to make his Defence.*

This, tis to be thought, he had intended; but, it seems, he had given up to others his power of keeping his Word.

[16] As yet, he carried it with much Ceremony to the *C. Justice*, whom he twice invited to his Table, and accepted of no mean Entertainment from him: Yet that day Seven night, *Col. Smith* being return'd to Town, his *Lordship* call'd a *Council;* where, without any thing previous, he immediately upon the *C. Justice's* coming in, pronounced a Sentence of Suspension, prepared in Writing, and that in the Name of *King William*, (his Death not having been formally notified); notwithstanding that his Lordship having no Power to *determine* the *Commission*, it was in full force by the Act continuing those offices in which men were duly invested at the Demise of the King; and Her *Majesty's* Proclamation sent him from *Boston*, continued such Offices, till *Her Pleasure* declared to the contrary. *6 June*, 1702.

Barely upon Articles which the *C. Justice* had no time allowed to answer, his *Lordship* did this, declaring he was satisfied the *C. Justice had behaved himself corruptly* in his Offices. Then, and not before, his *Lordship* gave the *C. Justice* a Copy of the *Articles;* every one of which, as he could have immediately shewn, either misrepresented known Fact, or where they were right in the Fact, grossly mistook the Law. The chief Grounds on which they are founded, are accounted for in this Narrative, and all of them shall in due time be set in a true Light. They being compos'd by *Bayard* and *Jamison*, with some help to dress them in an *English* Stile, 'tis no wonder that the most innocent things are represented as *Crimes.* Thus the *C. Justice* is charg'd with *corruptly* giving an Opinion, which, if

Sup. *That a Grand Jury is but an Inquest of Office*, &c.

wrong, affected not the Case in question. Taking notice of Mr. *Vesey's* using the Liberty of the Pulpit, for a *cloak to maliciousness*, is represented as proceeding from *Spleen* against the *Protestant Religion by Law established*, and a Design to *eradicate the beginnings of a Settlement thereof in that City*; The Legal Methods by which he disappointed all the Contrivances of the *Party*, to help *Bayard* to escape the hands of the Law, they impute to *Malice*; And his Endeavours to suppress *Illegal Trade*, and all Attempts against the *English Government and Laws*, to *Oppression:* And what he was never before charg'd with, *Avarice*; which 'tis well known might have been encouraged and largely supplied, if he had not strictly observ'd his Duty, and preferred the Interest of his *King and Country*, before his private Gain.

Art. 29.

Vid, *Artic.* 31.

The *Lord Cornbury*, however was easily *satisfied*, that the *C. Justice* was guilty of *Corruption:* But to colour this easiness of belief, after he had pronounced a Suspension, which might have been thought grounded on Evidence precedent, the Mayor and *Attorney*, by his Lordship's Order, published a *Siquis* to confirm the Articles, and summoned several before them at times greatly distant. How these two, who have been the *C. Justice's* Enemies, for freely telling them their Duties, may have prevail'd on some ignorant People and strain'd or misrepresented the Sense of others, by such Art as they could use in penning *Affidavits*, the *C. Justice* cannot tell; having, to no purpose, applied where he conceived it most proper, for Copies of all Papers against him.

Of Examinations after the suspension, to support the Articles against the C. J.

Vid. Van Hoek's *Affidavit taken* 7 Octob. 1702, *of his being examined about a Month before.*

The same day that the *C. Justice* was suspended, the *Lord Cornbury* resolv'd to have the Council, without the Consent of which he cannot dispose of the Publick Revenue, to be at his Command; and to that end turn'd out, not only the *C.*

Of the turning five in one day out of the Council.

Justice, who stood first of the Council in his *Lordship's own Instructions*, but Four more; and as to Three of them alledged only Generals; declaring, *he would render his Majesty the particular Reasons*, and *deliver them Copies of the same:* Which one of them has often demanded, but could never obtain. And in this manner all of them are deprived of means of making their Defence.

Prout Min. of Council 9 June. Capt. Walters's Affidavit, 6. Octob. 1702.

Five being thus turned out of the *Council* in a day, tho Seven still remained, in which case by his Instructions he is to add no more without Order; he, to secure the more certain Command there, put in Two; of which, one is *Dr. Bridges*, whose Character need not be given where he is known better than at *New York*. And yet *Magistracy* makes a speedy discovery of the Little Man.

Of a Breach of the Instructions in adding two to the Council.

Among those who were suspended from the Council, Three, besides the Chief-Justice, were from particular Offices: *Mr. Weaver* from that of *Receiver* of his *Majesty's* Revenue, and *Collector* of the Customs; and *Col. De Peyster* and *Capt. Walters*, from that of *Judges in the Supreme Court.*

Of the supplying Offices upon Suspensions.

That *Court* his *Lordship* supplied with the former *C. Justice*, who had for good Cause been remov'd, and *Dr. Bridges*. Into *Mr. Weaver's* place he put Three, one of which is Wenham, the other a *French* Bankrupt, *Faukonier*, incapable of the Office by the express words of an Act of Parliament, to the observation of which his Lordship is sworn, and every Breach is a Forfeiture of his Government.

Breach of Stat. 7 & 8. W. 2.

Mr. Weaver being turn'd out the very day he was to have sold a Ship of *Captain Vetches*, adjudged forfeited; his *Lordship*, upon Terms agreed on with the Captain, return'd him the Ship; whereby he was enabled to carry on his old *Illegal Trade* with the *French* at *Quebec:* In doing which, besides his * *Majesty's* Share, his *Lordship* arbitrarily disposed of the Prop-

** Of the arbitrary disposal of Capt. Vetch's forfeited ship. Note, This he ought not to do, being above the value of 10l.*

erties of *Captain Nanfan*, and *Mr. Weaver* the *Informer*.

Of unwarrantable proceedings against Mr. Weaver.

The same day, his *Lordship*, without any demand of further Security than what had before been given, caused him to be Arrested in an Action of 2000*l.* as due to his *Majesty*; and the Process was executed in the Night-time by the Deputy-Coroner, assisted with Twenty or Thirty Soldiers commanded by Two *Lieutenants*, *Matthews* and *Riggs*.

Some days after this, all Mr. *Weaver's* Goods and Papers were seiz'd; nor were the Goods suffer'd to be returned, till full Security was given for the excessive Value at which they were apprais'd, without Oath; but his private Papers are still kept from him, tho he has made Oath that none of the Publick were then in his Custody or Power.

Of the C. Justice's necessary provision for his safety.

The *C. Justice* having immediately upon his suspension visited the *Countess of Bellamont*, and Captain *Nanfan*, they knowing the Proceedings against Mr. *Weaver*, and hearing of illegal Severities intended against the *C. Justice*, would not suffer him to go home; advising him to provide for his Security in another *Province*.

Tho he had been absolutely determined to bear all manner of Injuries, and run all Hazards, while he could be permitted to execute his Offices, how much soever obstructed; yet, believing it impossible to defend his Right to the Exercise of the Offices, against the Power of so [17] Absolute a *Governor*; and knowing that his regard to the *Laws* would be rewarded with *Lawless Violence*, cross'd the River to *East-Jersey*, within his *Admiralty Commission*. While he was there, he was visited by Mr. *Weaver*, who had the good fortune to get away, tho all places through which he was to pass, were *guarded by Soldiers*.

From him, and others, the *C. Justice* knew with certainty, that Captain *Walters*, one of the *Commissioners* of *Oyer and Terminer*, before whom

Bayard was Tried, was, notwithstanding *Bayard's Attaindure*, arrested at the Suit of this Man dead in Law, in an Action of 10000*l.* and imprisoned in the common Gaol, till he thought fit to give Bail. That the like Action was commenced against *Col. De Peyster;* and some of the *Grand Jury* were arrested in Actions of 5000*l.* each. That *Young Mr. Atwood* was by *Dr. Bridges* denied so much as a Summons, for *Bayard* to shew his *Cause of Action* against one of the *Grand Jury Men;* and that the *Dr.* denied the like, requested by another *Practiser* of the Law, in the Case of the late *L. Governor*, who was arrested in two Actions of 2500*l.* each, at the suits of Graves and Prideaux: And that they had brought Actions of 1500*l.* each, against every one of the *Council* who committed them.

Of the extravagant Actions brought by Bayard. Vid. *The Captain's Affidavit.*

Mr. Weaver having absented himself, after he had, as he thought, given sufficient Security to answer the *Crown*, and left Effects to Indemnify his *Sureties;* severe Proclamations issued out against him, as if he had run away with a large Sum of the *King's Money*, and a Price was put upon his Head. However, it being thought, that he had Money in his Hands to answer the Cravings of an hungry Government; the *Lord Cornbury* caus'd Assurance to be conveyed to him of *Protection* from *private Suits*, while he should be passing his Accounts with the *Deputy Auditor:* upon this Assurance he returned to *New York*, where having setled his Accounts, he immediately withdrew from the Fury of an *Enraged Party*.

Of Mr. Weaver.

The *Governor* being intent upon gratifying them in all their Demands, and seconding their Heat, turn'd Col. *De Peyster*, and all the *Captains*, of which, Two had been of the *Council* in his *Lordship's* time, out of the *Militia;* made *Peartree* an old Master of a Sloop newly come from Jamaica, *Colonel*, (which as was generally reported, he Merited, for advancing 800l. upon the Security of the *heads of the Party*, to carry on their Cause); and a *Frenchman*, with some

Of altering the City Militia.

disorderly *Dutch* and *Englishmen*, he made *Captains*.

While the Faction thus reign'd at *New York*, *Mr. Atwood* and *Mr. Weaver*, found it necessary to hasten for *England*; and knowing that the Governor would suffer no Merchant Ships, but what belong'd to that Party, to go thither, under pretence, that they must stay for a Convoy, the departure of which, his *Lordship's* Humour made very uncertain; resolv'd upon making to *Virginia*, where they hoped to be time enough to have passage in one of the Convoys to the great Fleet going from thence.

Of going for England *by way of* Virginia.

Note. *While he detain'd the other ships, he suffer'd one of* Delancie's *to go with Bayard's Pacquets.*

In their way thither, being by contrary Winds kept longer than ordinary in an *Inlet* of the Sea, they were likely to have been surpriz'd by a Vessel from *New York*, with *Forty* Armed Men, who had Orders to carry them back *Dead or Alive:* of Executing which *Arbitrary Command*, they miss'd but 5 days.

Of an Escape from an intended plain Assassination.

At *Virginia*, they finding themselves too late for the Fleet, took their Passage for *England* in a leaky *Merchantman*, of which they never heard since. But as they were just out of the *Capes*, to their extraordinary good Fortune, the Master was summon'd to go Aboard the *Centurion* Man of War, by that worthy *Gentleman Captain Hern;* whose kind Usage of them is ever to be acknowledged.

Before they left those Parts, a scandalous Libel was printed against the *Chief Justice* at *New York*, where *Bayard* and *Jamison* corrected the Press. The Title it first had, was, *An Account of the illegal Prosecution and Trial of Col. Nicholas Bayard;* the partiality of which Title was too gross to pass in *England*. And therefore now they dress it out more speciously, that it may look as if 'twere Printed by leave of the *Chief Justice;* which since they could not pretend for a *meer Libel*, they procure a License from the *Lord*

Of the Libel against the C. J. licensed by his Lordship.

Cornbury, dated as of the 15th of *June*; tho in truth, the *Printer* has declared he *had no License*. However, this is not the least Invasion of the Office of the *Chief Justice*; nor was it ever before known that a Condemned *Trayter* had from one who was not at the Tryal, leave to represent his Case as favourably for himself as he could, and to impose it upon the Publick with a *Face of Authority*: neither did any *Governor* before the *Lord Cornbury*, assume a Right to examine Witnesses after their Evidence did *transsire in rem judicatum*; and by the construction of the Law is to be taken as the Jury found it.

'Tis not within the intent of this *short Narrative*, to shew all the Falshoods, Contradictions, and Absurdities of that *Spurious Tryal*, which may soon be expos'd more fully: Yet this need not be much labour'd, since, in its own Nature, the *Printed Account* ought to have no more Credit than the *Publisher*, who can be no Jury-man or Witness in any Cause, for want of *Legal Credit*; besides that honester men are too apt to make the best of their own Cases.

Some Observations upon the printed Account.

The very *Preface* says it comprehends but the Substance of what passed; so that there not being the *Chief Justice's* Words, nor yet the *Witnesses*, or the *Prisoners*, 'tis evident they are turn'd to the Sense which *Bayard* and *Jamison* put on them.

Yet in this matter there's Contradiction upon Contradiction: the *Title Page* says, *The taking the Tryal was strictly prohibited*; the *Preface* will have it, that there were no Notes but what were *taken privately unknown to the Court*: but the 25th Article against the *Chief Justice*, from the same hands, charges him, That, *to cover the iniquity of the Prosecution and Proceedings, he positively forbad the taking in writing any Notes or Memorials of those Tryals.* Notwithstanding their Charge, as if Notes were universally Prohibited, yet according to their own account of the Tryal, the *Chief Justice* upon denying

to admit a *Stranger*, whom *Bayard* would have imposed upon the *Court*, to represent what should pass as he might think fit, said, *You have a Sollicitor allowed, he may take Notes;* but then they add, as if he should say, *any other will not be suffer'd to do it;* and yet they confess he soon went further, saying, *Any Attorney, or Practitioner of the Court, may take Notes for his private use.* And 'tis well known he gave a greater Liberty.

F. 9.
F. 10.

Tho Memory, their Sense of the Substance, and a few Notes, taken, as they say, in *private*, and as 'tis presumable, remote from the Court; are their only Vouchers in the *Preface;* yet [18] thinking other. Mens memories as bad as their own, when they come to the *Evidences*, they pretend to give *them word for word, as they were taken in open Court.* But as there is a fatality against the passing of their Inventions for Truth; they add, *and since agreed unto by all of them respectively.*

F. 11.
F. 11.

Where it appears, that the Witnesses were in their power, and their Evidence, since, cook'd up as much as may be, to favour the Party convicted upon the Evidence given in *Court;* not such as *Bayard* at full liberty, could procure them to affirm without Oath, or upon any Oath administred without Authority. The *Tryal* even as they Print it, plainly evinces, that the Witnesses had been tamper'd with since their being examined, while the matters were freshest in their memories: The obvious endeavours of some of them to retract what they appear'd to have sworn, would not pass upon the *Jury;* and however, 'twere easy to evince that in many Particulars, they swore more fully at the Trial, and otherwise than is in the Print: Nor was there any real question among the Lawyers; but the *Overt-Acts* laid in the Indictment, were fully proved, and the Jury were abundantly convinced, that the Libels contain'd the Expressions set forth in the Indictment; and that there were more Expressions, whereby *Bayard* in Conspiracy with others, incited

the People to cast off the Government; since being ask'd by the *Foreman* whether he would produce the Papers, he pretended he could not. Which 'tis evident he would have done, if they had not contain'd what was sworn by the Witnesses. But if what they now pretend to have been the true Papers, contradict what was sworn; either he was justly convicted through his own obstinacy, in refusing to produce what might have clear'd him; or which is most probable, the Print in this as in many other particulars, would obtrude falsehoods upon the World: For Instance: *Bayard* in the Account he gives of the Evidence from his own Notes, acknowledges Clous swore that the "Assembly had given a Gift to the *L. Gov-*
"*ernor*, to tempt him to pass their Acts, and
"another to the *Judge*; and that [*thereby*] his Tryal *f.* 24.
"*Majesty's* Government was like to be rendred *vile*
"*and cheap in the eyes of the People.*

But the *Address* which they publish for true, mentioning particulars, with which it blackens the Government under the late *Earl of Bellamont*, adds, Vid. *f.* 27.
"with many other sinister, indirect, and un-
"just Proceedings, easily to be proved, but too many
"to enumerate at present to your Majesty; [thereby]
"greatly offending your *Majesty's* good Subjects, *and*
"*tending to render your Majesty's Government in*
"*these Parts, scandalous, vile, and cheap, in the eyes*
"*of the People.*

And all there, which can be thought to look towards the following Administration is no more than this;

"Altho these Methods had, long since, been deter-
"mined; *if they had not lately met with new Supports.*

In which, there's no direct Charge against anybody.

Who then can think, that if their Printed Account be true, this Petition would not have been produced at the Trial to encounter the Witnesses? Were it supposable that *Bayard* had not the power over the Papers; can it be thought his own Party would have so given him up, by depriving him of such Evidence?

Not to urge the gross Falshoods in the Print, making *Mr. Weaver* say he was of the *Lesterian* Party, and would stand and fall by it; The *Chief Justice* not only often to express himself very improperly, as if he followed *Jamison's Scotch*, or *Bayard's Dutch* Dialect; but so impertinently, as to talk to one matter, when another is in question, to which they will not allow him to have spoken one word: 'Twould be too tedious here fully to expose the Partiality of their Omissions; but it may be observ'd as a Specimen.

F. 11.

1. That though the *Chief Justice's* Son was of *Counsel* for the Prisoner both before Conviction and after, and urged Matters for him, as fit to be observ'd as the Arguments of others since improved; no notice is taken of anything said by him.

2. The Print wholly omits the Arraignment upon the Indictment before the Tryal, that the Objection suppos'd to be of weight, upon the Grand Jury's not being return'd by Precept, may be thought to have come in time.

Vid. *Tryal.* F. 6. & F. 8.

3. The Print omits the reading in Court an Affidavit, proving that Fourteen of the Grand Jury agreed in finding the Bill; and that *Vanderspeigle*, who was against it, declared Fourteen did agree: According to one of their Articles, the Tryal was then appointed, *viz.* when the Motion was made; but by their omitting this, they make the *Chief Justice's* ordering a Minute, That it did appear to the Court that the Bill was found by more than Twelve, seem arbitrary.

Artic. 20. Vid. *Tryal.* F. 7. & 10.

4. Tho by their Preface they would have it thought that nothing material which pass'd at the Tryal is omitted, but the *Elaborate Discourses*, as they, perhaps, jestingly call them, of *Mr. Weaver*, previous to the Tryal, and of Mr. *Atwood* in his Charge to the *Grand* and *Petty Juries;* more Elaborate Answers were known to have been given to the seeming Authorities cited by the Counsel, and to the shew of

Reason in their Arguments, which were far inferior at the Tryal, than what they are advanced to in the Print; where they have the advantage of appearing as unanswerable, because the Publisher is not so just as to mention any thing said by the Court, which he represents as Arbitrarily over-ruling the *Reasons* offer'd by his Counsel: But fairly to have publish'd the Grounds for such over-ruling, would not have answer'd the end of the Two Editions of their Account; the First of which avows the Design of representing the Proceedings illegal. F. 26. Vid. *Title* sup.

5. Whereas the Chief Justice spoke to Three Points offer'd in Arrest of Judgment; and gave distinct Answers to every seeming Authority urged by the Prisoner's Counsel; citing such as removed all Objections; they greatly curtail what he spoke to Two of them, and mention nothing of his citing Authorities; nay, tho they frequently enlarge the Arguments of their Counsel, with all that they could add afterwards, to dress them to advantage; yet such is their fairness, that their second Edition omits all that their Counsel said upon One of the Points; nor do they so much as name the Point, lest it should expose the Ignorance of their Counsel, who were very positive that the Commission for the Tryal was expired, because it was continued by Adjournment, beyond the Natural Day on which the Court was to be holden.

[19] Tho this Objection is now dropt, 'tis one of the Articles against the Chief Justice which the Lord *Cornbury* supposes to be fully proved, and as is to be thought, the principal Ground for his letting *Bayard* and *Hutchins* out of Prison, and suffering *Bayard* to bring Actions against Judges and Grand Jury-men.

6. That they may load the Chief Justice, as acting without the consent of the two other Judges in Commission with him, they in the Print, say, *no Answer was given* to the Prisoner's Request, that they would declare whether they agreed the Matters against him to be Treason: When it is well F. 11.

known, that they expressed their agreement in that Point with the Chief Justice.

7. Whereas after they have brought in Mr. *Emmet* as the only Lawyer that argued upon Two other Points; upon which Counsel was indulged the liberty of speaking, after they might have been concluded by the Paper in the Arrest of Judgment: 'Tis well known Young *Mr. Atwood* argued those Points more largely: but as they make no mention of him, neither do they of any one Authority to the contrary, cited by the Chief Justice, tho he cited many; and the Copy of his Argument upon those Heads, is now to be seen, notwithstanding the loss of most of his Papers, by his Son's being taken by the *French*.

F. 25.

8. Whereas in the Print, they pretend to give the Evidences in the Witnesses own Words, as they were taken in open Court, and since agreed unto by all of them respectively, among whom they name *Hugh Grey*; and will have it, that upon being ask'd whether he remembred any Complaints against the Government in the Addresses, he should only answer *no*; with which they conclude his Testimony. 'Tis true in fact, and therefore not urged barely upon the credit of what *Honan* certifies to have been afterwards sworn by him, that there was a discourse between the Chief Justice and him upon the mention of Illegal Proceedings; which he, tho upon his Oath, artfully turned to the Practices of the Traders there.

Tryal f. 11.

F. 14.

The shameful Tergiversations of the Witnesses, and backwardness to own what at last came out, with the Account of what they who had been examined before the Council had sworn before they were tamper'd with; having fully convinc'd the Jury of the Truth of the Facts laid in the Indictments: To observe the particulars, would be to countenance such Examinations of the Grounds of their Verdicts, as are a manifest violation of the Privileges of Juries, who in criminal Cases are not liable to any Attaint.

But the World may judge, what Credit ought to be given to an Account of Law and Fact, contrived by the Prisoner and his Counsel, with the help of the whole Party, to make the Proceedings look like a Conspiracy of Blood-thirsty Men, against the Life of a quiet innocent Man; and since Reformed by a Candidate here for the *C. Justices* Place; as if *Buckingham Court* could supply *Evidence* of what passed at *New York*.

Whatever is now pretended, all the Objections against the Proof of Fact, urged by *Mr. Nicol*, and manifestly given up by *Mr. Emmet*, was, as if *Bayard's* own signing the Papers was prov'd only by the similitude of Hands; tho that differed from the Cases cited, because, they were Papers, in his own Custody, and by himself produced to the Witnesses, for them to follow his example; which with the Accounts of the Titles and Contents, as produced at the several Places, removed the other, as if it did not appear, that all who Signed more than Rolls or Lists of Names, sign'd the same Papers.

'Tis certain, the Counsel urged nothing against *Bayard's* being Chargeable with what his Instrument *Hutchins* did, in procuring Soldiers to Sign at his house.

As Mr. *Emmet* put in, the only Question was concerning the Law arising out of the Fact; but then he falsly insinuates, as if the Court, or the King's Counsel had declared, That if the Jury found the Fact, they were to have no regard to matter of Law. F. 19.

He further plainly admits the Fact, which was proved to be High-Treason within the Act on which *Bayard* was tried; but argues, as he thinks very strongly, That no Act or Thing can be made Treason in the Foreign Plantations, but such only as are enumerated in the Stat. 25. E. 3. and what is to be *gathered* out of the words of the Act only, without any forced Interpretation: Whereas, F. 18. 19. F. 22.

as had been observed by the Court, Matters have been adjudged Treason within that Statute, which are not there *enumerated:* for Instance, all Evidences of a Design to Depose the King, or divest him of his Regal Power; so a Rising upon any publick Account, though it may but by a remote Construction be thought a Rising against the King, is a levying War.

3. *Inst. f.* 12.

As the Statute 25 E. 3. refers Common-Law Treasons to the Declarations of Parliaments; to deny, that the General Assemblies in the Plantations have the like effect, in relation to the Parties, who by their Representatives consent to those Laws, is to deny that unquestioned Prerogative of the Crown; by which, as the Chief Justice rightly observ'd, but is misrepresented in their Print, the Plantations are govern'd more than *England* is. And thus, tho *Ireland* is govern'd by the Laws of *England*, some things are Treason there which are not here.

Besides the Act 25 E. 3. plainly refers to those Adjournments of Causes which us'd to be from the Courts of *Westminster-Hall* into the Parliament, *propter difficultatem*, which cannot be thought intended for parts so remote.

Mr. *Nicoll* objected in this matter, as was observ'd at the beginning; and besides the Points of Law already accounted for,

1. Young Mr. *Atwood*, tho not honor'd with their owning him in it, objected against one of the Grand Jurymen as partial for the King: But they untruly say, *Some* of them were objected against. This was over-ruled by the express Authority of *Stamford*, this being an Inquest of Office, to which he can have no Challenge, except what is allowed by the Statute, mentioning the necessary Qualifications of Indicters.

F 6.

Stamf. p. 131.

11. H. 4. *c.* g.

2. Mr. *Nicoll* objected against the Pannel of the Grand Jury, it not being returned by Precept under the Hands and Seals of the Commissioners: To which no

manner of Answer is given in the Print at the time the Objection was made; but after they have made him to talk impertinently of foreign matter, they allow him to have observ'd the difference between the Grand and Petty Jurymen. And he certainly was in the right, That a Precept is not necessary, [20] but the King's writ is sufficient for the Grand Jury: And Chief Justice *Treby* would not say but it might be for the Petty Jury. Besides, if there had been Weight in the Objection, it came too late, being after the Party had pleaded to the Indictment.

Cook's Tryal f. 13. Vid. Hales P. C. 202. Fitz Abr. Tit. Coron. n. 89. Trin. 9. H. 5.

3. Mr. *Nicol* urged that the Prisoner is not in the Indictment directly charged with any Fact except his own Signing, but for Endeavours: Which is the governing Word used in the Act on which he was Tryed: Besides, it is charg'd, that the Soldiers and others signed by his Procurement; and that he purposing, designing, conspiring, and endeavouring with others to defame, subvert, and alter the Government, and to disturb its peace, good, and quiet, did traiterously use divers indirect Practices and Endeavours to procure Mutiny and Sedition among the Soldiers, and did draw in Numbers of them and others to sign the false and scandalous Libels; part of the Contents whereof is there set forth: Which said Libels were by his procurement signed by the said Soldiers, and others.

This was more than an Endeavour to procure Mutiny and Sedition, being a manifest drawing them into Sedition, and fully comes up to the Treason within the Act, especially it being laid that *Bayard* had by the malicious Scandals in the Indictment, incited the Subjects to disown the present Authority and Government of the Province, and to cast off their Obedience to his Majesty's said Government.

Nor need this Point be labour'd, since her Majesty's Attorney General, Sir *Edward Northey*, being by the Lords Commissioners for Trade and Plantations, required to give his Opinion,

Attorney General Sir E.N's *Opinion.*

Whether the Warrant for committing *Bayard* be Legal; and whether the Crimes charg'd on him amount to High Treason, within the meaning of that Act of Assembly? Returned, That he had perused the Warrant, and the Act; and is of Opinion, That the Warrant is sufficient in Form to charge *Bayard* with High Treason within that Act; and that there is as much certainty of the Nature of the Crime charg'd, as is necessary in Warrants of Commitment; but there must be much greater Certainty in the Indictment; which he had not seen. Since therefore, as may appear by the Account above, of the Fact which was proved, the Proof came up to what was charged in the Warrant; if it were admitted that the Indictment had not sufficient Certainty, the want of which cannot be shewn; however, an Error in Judgment upon Nicety of Law, when the Man was guilty of High Treason, can be no just cause of censuring the Judges.

4. They represent it as objected in Arrest of Judgment, that one of the Petty Jury was an Alien; tho in truth, no such Objection was made in Court as to any one of the Petty Jury, and if it had, would have been manifestly too late, when the Challenges were over. Indeed when it was likewise too late, an Objection had been made, as if one of the Grand Jury was an Alien; which if true, should have been urged before he had pleaded to the Indictment, but could not be enquired into afterwards.

F. 22.

Vid. *Hales P. C. p.* 202. *Fitz. Abr. Tit. cor.* n. 89. c *Trin.* 9. H. 5. Pl. 21.

5. One of the two points moved in Arrest of Judgment, after what was offered in Paper had been overruled, and which were argued by Young Mr. *Atwood* and Mr. *Emmet*, was upon the *Venues* being from the Neighbourhood of the City. As to this, Young Mr. *Atwood* is suppos'd to have been silent, as well as his Father; who shew'd that *Arundel's* Case, the most specious of any cited by Mr. *Emmet*, does not (*a*) reach to a City; and as to *Stamford*, cited by his Son, where *Stamford* relying on the

(*a*) *Cr. Cor. f.* 164. 165. *Adams v. Hicks.*

Year-Book, 8. H. 5. says, if the Vill. be a City, *de vicineto* shall be left out; he shewed (*b*) the contrary to have been often since resolv'd, and the Book 8. H. 5. not to be Law.

(*b*) *Cr. Jac. f.* 308. *Clison* v. *Proctor.*

6. The other Point, on which they stifle the Son's Argument, adding all to Mr. *Emmet*, was upon the Precept's not being indors'd by the Sheriff: Upon which the Chief Justice shew'd.

Ib. f. 493. *Walter* v. *Mansel.*

(1.) That if 'twere Error, it was observed too soon, and might be amended at any time fitting the Court, before Judgment given; citing several Authorities supporting Justice *Chamberlain*, who says, The Judges will require the Name of the Sheriff to be subscribed before Judgment given, tho it was omitted at the time of the Return. And *Yelverton*, reporting the Case of *Holdsworth*, on which the Prisoner's Counsel relied; where the Court held, That had it been in Court the same Term, the Court might call in the Sheriff to amend it, before the Verdict pass'd, or since in the same Term.

Stiles f. 2. *Knight's c.* 2 *Rolls f.* 209, 210. *Yelverton f.* 110

(2.) That the best Authorities were, That a Writ of *Venire* was not void for want of an Indorsement; but that the Sheriff was to be amerced; and that only by the Statute of *York*.

12 E. 2. c. 5. 2 *Rolls f.* 210. *Bethel* & *Parry.*

(3.) If the Sheriff's Name were requisite to all Returns within the Statute of *York*, and the want of it not amenable, a *Precept* (*a*) from Commissioners of *Oyer* and *Terminer* is not within the Statute, and consequently not at all needful; for that (*b*) before the Statute, Writs were good without such Indorsement, and other Returns into Courts are good since the Statute, without the Officers Names.

Cr. Cor. f. 351. *Wickham & al.* v. *Enfield* & *Ux.*

(*a*) Vid. *Cook's Tryal* p. 13.

(*b*) *Brook Tit. Return de brief n.* S. 1.

All the Authorities in the Margin, and more, having been cited by the Chief Justice by way of Illustration; if anything of Fairness had been intended by the Publishers of that Sham Account, they would certainly have taken from the Sollicitors and Practisers, who all had known they might have been

41. *Assize Pl.* 29. 41. E. 3.

supplied from *Bickley*, who by the Chief Justice's Favour was admitted to Practise, without any Letter or Certificate mentioning his Qualification: Nor was he ever reproved by the Chief Justice, to whose Table he had been welcome, till he had been very insolent for his Client *Baker*, in that plain Party-Cause; in which, as since appears, he was as much engaged out of Faction, as for his Fee; he being one of them that join with *Baker*, *Charles Wolley* and others, known to have been against King *William's* Government, or open Violators of the Law; and upon which account they would be thought to adore the Providence of God for the great Deliverance by the Lord *Cornbury*, from their eminent Ruin and Destruction then in prosecution. And to shew what the Designs against King *William's* Government were before his Lordship's coming, they assure him that through the expectation of a Deliverance by him, they who represent themselves as the *stronger* part of the Province, which 'tis certain they were not, without drawing in the Soldiers, declined the [21] Proffer of Assistance of Force, to relieve them from their Oppressions, and prevent the Execution of the two Prisoners.

Second Address to Lord Cornbury, *sign'd by* Baker, Wolley, Bickley, *&c.*

This Force, 'tis not unknown, was sollicited by Mr. *Levingston*, whose Son married the Daughter of *Col. Winthrop*, Governor of *Connecticut;* and in the Colonel's Sickness he procured a Threatning Letter to be writ the L. Governor, from the *Colonel's Deputy*.

Of a Design to rescue the Prisoners by People of another Province.

The knowledge of these Practices shew'd the necessity of executing the Law, unless *Bayard* would render himself a fit Object of his Majesty's Mercy; which he seemed to do, after the expectation of timely Relief by the Lord *Cornbury's* coming, or by such means as the Party proposed, proved vain. But that *Catastrophe* has made him forget his former Thoughts, and forces him to apologize, for owning the drawing in the Soldiers into a Conspiracy against

King *William's* Government, any Offence whatsoever.

And since he has had the Lord *Cornbury's* Countenance and Leave, not only to blacken the Chief Justice in such an Account of the Tryal as might make most in Favour of the Prisoners, but to load the Judges who staid behind, with Actions of 10000l. apiece for acting as Judges; that, with the other Enormities now licensed there, were a sufficient Warrant for the Chief Justice to withdraw, when he was deprived of all Opportunities of serving the Crown in his Station.

As soon as he arrived in *England*, whither the Storms of that Government had driven him, he applied himself to the Lords Commissioners for Trade and Plantations, for some effect of that Protection of which their Lordships had assured him in the discharge of his Duty, after they had declared themselves "well "pleased with what he had writ of his Care in "the Affairs of the Province, and with the Tes- "timony he had thereof in the additional Salary "of 70l. per *Ann.* made him by the Assembly: declaring "further, "That what he had done for preventing the "Mischiefs which threatened the Peace of the City, "from the discontents rais'd upon the Return of Alder- "men and Assistants, was very acceptable to their Lord- "ships; who ordered their *Secretary* to assure him, that "he could not do a greater Service, than in contribut- "ing his endeavours towards the reconciling all Differ- "ences, and preventing the Mischiefs that may arise from "thence. And they therefore desired him to *continue* "*that Care* on all Occasions.

Letter from their Secretary, 29. Jan. 170½.

And as a means to keep under the most obstinate Opposers of the King's Authority, they recommended the prosecuting with Vigor, the Insolence of the Men of *Suffolk-County* who had disobeyed the Kings Writ for Electing *Representatives*.

This was a great Encouragement to him in the faithful discharge of his Duty; and being upon that very account, as he was always ready to make appear, sus-

pended from his Offices, he could not in the least question, but their Lordships would receive his Complaint against the *Lord Cornbury*, for suspending him; or hear those direct Answers which he proffer'd to the pretended grounds for it; which their Lordships deferr'd till they should hear directly from the *Lord Cornbury*, with intention as was presumed to hear him then.

The Papers being come, he put in a Memorial for Copies; but several days after was told, the Lord *Nottingham* had sent them on *Thursday* or *Friday*; and on the *Saturday* following, Mr. *Atwood* received a Summons to attend the Committee of Appeals the next *Tuesday*, without any mention of the Occasion.

When he came there, he found that *Bayard*, instead of Petitioning Her Majesty for a Pardon, or Leave to bring a Writ of Error, had arraign'd his Judges, and would have one of them and the King's Sollicitor, to answer as Criminals; but his Agent being put to shew, that no Writ of Error would lye as, it apparently did, this Appeal was dropt; and they procured the bringing before her Majesty in Council, the Lord *Cornbury's* Reasons for suspending him, and Four others of the Council at *New York*.

By this means he found to his great Surprize, that their Lordships who gave him hopes of an Hearing before them, upon the coming of the Lord *Cornbury's* Papers, without any Hearing, approved of his being Suspended from the Council for Misbehaviour, and divers irregular and Illegal Proceedings in Government, and represented it as fit, that they should be displaced.

Yet so great was Her Majesty's Goodness and Justice, that She appointed him to be heard by his Counsel, and directed him to make Application to the Lords Commissioners for Trade and Plantations, for such Papers transmitted by my Lord *Cornbury* as may be proper for his Information. With this Order he was not serv'd till the 11th of *January*;

31. December, 1702.

but before had Notice from One of the Clerks of the Council, that he might have Copies of such Papers as concerned him. Upon this he attended their Lordships with a Memorial, taking notice of the Hardship upon him, to have been twice Condemned unheard; and pressing for Copies of all Affidavits against him, or leave to take Notes out of them; which was then deny'd, unless the Attorney General, or one of the Secretaries would express a Consent under one of their Hands. Missing the Attorney, he purposed to Petition Her Majesty, without further Application to their Lordships; but they requiring his Attendance, proffer'd him the Copies, if he would allow the Papers of which he should take the Copies, to be Evidence; and then the Secret came out, That in truth, they had nothing which can Legally warrant any Censure upon him: The Lord *Cornbury* having made no Certificate himself, but only that Man of Fame HONAN; and *Honan* is such a common Vouchee for Affidavit Men, as he had been for Pyrates; no Original Affidavits appearing, but only supposed Copies attested by him.

11. Jan. 170⅔.

12. Jan. 170⅔.

Thus impotent has Malice hitherto been; yet still the Agent threatens some mighty dormant Evidences; the Secresy of which will justly render them suspected, and such as ought not to be admitted; especially if they are none of the Evidences on which the Lord *Cornbury* pretends to have grounded the Suspension.

But Her Majesty having been so Gracious, as upon the Humble Petition of the said Mr. *Atwood*, and Mr. *Weaver*, to have order'd them Copies of such Papers, or parts of them as they shall think material for their Defence; It is not doubted but She will permit the true Characters of their Accusers, and grounds of their Rage to be exposed.

Order of Council. 14. Jan. 170⅔.

[22] As to any matter pretended against the said Chief Justice, tho it has been resolv'd, That a Judge was not to Answer even in the *Star-*

12. *Rep. f.* 24, & 25.

Chamber, while its Authority lasted, for what he did *as a Judge*, yet he is very desirous, that all the Circumstances may be heard before Her Majesty; who, he is fully satisfied, will not suffer Clamours from a Party, who have been us'd to exclaim against all Prosecutions of Pyrates, illegal Traders, and other Violaters of the Laws, to pass for Proof.

Yet meer Noise and Rumor industriously spread by Malefactors, and those whom they have hired for that end; has occasioned all the Hardships which the Chief Justice has lain under; next to a Resolution in the Governor, to get rid of one who durst urge the Law against lawless Proceedings; some of which have been already touch'd on, having hapned while the Chief Justice continued in the Province; since which, further Accounts have come of other Matters, agreeing with the first steps taken in his Lordship's Administration. As,

1. That in order to detain the Countess of *Bellamont* and Captain *Nanfan*, and if possible, to stifle their just Complaints; his Lordship not only caused them to be charged with extravagant Actions upon pretended Debts to the Soldiers; requiring the Lady, tho an Executrix, to give Special Bail; but after both had given Bail, positively under his Hand ordered the Captain of the Man of War, and the Masters of the Merchant Vessels going for *England*, not to receive either of them on Board; and the Learned Attorney General, thinking Arbitrary Power might be delegated to him, signed one such Order in his Lordship's absence.

2. The Debt of the Government is increas'd near 2000l. in one Particular, greatly detrimental to the Province, besides the likelihood of a total Stop of all Payments, except the supplying the occasions of the present Administration.

3. That the *Five* Nations of Warlike *Indians*, who were always on our side against the *French*, and without Advice from whom, we can know nothing of

the Enemies Motions, are in effect, with all the Arms they have had from us, given up to the *French*, in being allowed to stand neuter: Whereby the *French* have opportunities of working upon them to their purposes, while the *Indians* in the *French* Interest, are at liberty to joyn in attacking us, provided they offer no hostilities against those *Five* Nations.

4. In consequence of which Neutrality, the *Mohaques* bordering upon the *Massachuset's* Colony, resolve to stand neuter, tho *Five Hundred French Indians* are actually in motion, from whom hostilities are daily expected. *New England.* Vid. *Letter from* Boston.

5. As the Soldiers of the Garison at *New York* were by a plain force brought into the Freedom of the City, so they have been carryed into the Field, to vote for the Choice of Representatives, and disturb the Freedon of Elections.

6. Even the Soldiers who were sent into the Field in a Body, under their Officer, Lieutenant *Riggs*, were themselves under a force in relation to their voting, the Officer declaring, they should vote as he pleas'd, and forcing back some who went to that side which he came to oppose.

7. Tho by a late Act of Assembly not then repeal'd or disallowed, the City and County of *New York* were to send Six *Representatives* to the *General Assembly*, his Lordship ordered Writs to issue but for Four; taking to himself Power to set aside Acts of Assembly.

8. Tho he seems to disown the Authority of that Assembly, at least, at the time when the last Acts pass'd; he has raised Taxes by colour of one of those Acts, and applied them to other Ends, than those to which the Act had appropriated them.

9. That, as it were on purpose to secure acceptable Returns, he made *Wilson* Sheriff, noted for foul Practices in that particular. And *Wilson*, to keep to his Character, without the consent of the Candidates, and contrary to the Law of the Province, adjourned the Poll from the Field, to a private House, where he un-

duely declared a pretended Election, without taking the Names of them who offered to Poll on the other side.

10. His Lordship has taken upon him to disallow the Legal Vouchers, without the personal appearance of Receiver of the Revenue; by means whereof, the Estates, of his Sureties may be torn in pieces before Orders can come from *England* to relieve them; and the like he may do in the Case of the Countess of *Bellamont*.

11. As most of the Calamities under which that Province groans, according to the Lord *Bellamont's* Letters, with the plain Evidences sent by him to the Lords Commissioners for Trade and Plantations, are owing to the Management of *Bayard*, *Colonel Smith*, *Mr. Nicoll*, and *Honan*, with such as they admit to their Cabals; all honest Men there, dread the Consequences of *Bayard's* being permitted to reek his Malice upon the *Judges* and *Jury-men*, who brought him to a necessity of confessing his Offence against God and the King; or being Martyr to his obstinate Ambition of continuing the Head of a Faction; and of Col. *Smith's* being confirmed Chief Justice, and *Honan*, *Secretary* of the *Province*, with *Jehu Nicoll* to push them on to all the Extremities, which he supposes he has Law enough to Justify.

Vid. *The Books of the Lords Commissioners for Trade and Plantations.*

12. All fair Traders to and from *New York*, are startled at the Liberties given several of *Kidd's* Crew, freely to walk the streets there, and observe when and which way their Vessels go out; besides the Advantages which *Pyrates* and Breakers of the Laws of Trade, have over them in every respect; and some even of those Men who thought the *Lord Cornbury's* coming a great Deliverance, cannot but complain of the loss of Three Ships with their Cargoes, occasioned by his unreasonable detaining the Man of War appointed for their Convoy above Five Months, meerly for his Dispatches, till the *Convoy* was ordered another

way; and not exercising the like power for the Preservation of their Ships, which he did to gratify his own Humour.

The Chief Justice at least, may be allowed to speak out upon this melancholy Occasion, since for ought he knows, he has lost by it a Son of the greatest Hopes, who was carried a Sick Prisoner to the Hospital at St. *Maloes;* after which, 'tis little to mention the Loss of all other Effects, besides a good Set of Law Books, and most of his Notes and Papers of Consequence.

[23] Upon the whole, it is most humbly submitted to the Consideration of them, who have the Power to remedy those Mischiefs which have invaded that Province with an high hand, and brought a flourishing Plantation to the Brink of Ruin.

1. Whether if the *Bayard's* Men, as they are called in the *Jerseys*, were so considerable as they artfully represent themselves here, to their no small Cost, they would not have chosen Legal Methods, as the most safe and durable, instead of such as must be abhorred in *England;* without Countenance from whence they cannot be supported?

2. Whether that Force which has been us'd to bring the Soldiers into the Freedom of the *City*, and after to the Choice of *Representatives;* and the Sheriff's adjourning to a private House without Consent of the *Candidates*, and there declaring a Sham Election; is not a *demonstrative* Proof that their Party is the Weakest, and most inconsiderable, in *New York?*

3. Whether an Encouragement from hence to the present Measures there, would not be vastly to the Prejudice of the Trade and Customs of *England;* to the Ruin of many of the best Men in the *Province;* and tending to its Total Destruction, either by intestine Feuds, or an Invasion from the *French*, to whom it lies open, with a weak Garison on the Frontiers, and hardly any Fortification?

4. Whether if *Bayard*, notwithstanding his acting

as if he stood in no need of the *Queen's* Mercy, should upon a proper Petition be permitted to bring a Writ of Error in the Supreme Court there, *Col. Smith* and *Dr. Bridges* would be fit Judges, or Mr. *Broughton* the *Attorney General*, such a Prosecutor as is both willing and able to maintain the Right of the Crown?

5. Whether, since the most apparent Malice against the *Chief Justice*, could not raise one Objection, or Matter of Reproach, in relation to any private Cause; and in Causes wherein the Crown was interested, he might have reap'd much the greater Advantages by favouring the Parties; his Integrity does not stand irreproveable?

6. Whether, if it should happen that the Facts with which *Bayard* is charg'd in the Indictment, and are found by a Jury truly of his Choice, as the *Sollicitor* challenged for the King but above *Twelve* out of *Eighty*, are not *High Treason* within the Act upon which he was Tryed; the *Chief Justice* can be charg'd with any Severity in applying the Means, then, by the L. Governor and whole Council, judg'd necessary for preserving the Government? Since 'tis evident, tho *Bayard* calls this a *Conspiracy* against his Life, the subduing the *Faction* by bringing the Head of it only to confess himself guilty of an *Offence*, without calling it Treason, was as much as was insisted on. That this has not had its due effect, is owing to others, and to such a subversion of the Law as cannot be enquired into.

7. Whether, as it is known that the *Libels* from *New York*, against the Administrations of the late Earl of *Bellamont* and Captain *Nanfan*, are new-vamp'd here by *Evidence Mr. West*; his Merit in the *Plot-Office*, under the Conduct of *Chief Justice Jeffries*, and noted Sincerity, will justify his Pretensions to rise upon the Fall of the *Chief Justice* of that *Province?*

8. Whether the Usage Mr. *Atwood* has met with,

be for the Honour of the Law, or any Encouragement for an Honest Man to undertake so hazardous a Post, of no Profit, as his Case has been? And whether a Dishonest *Chief Justice* is not the most likely to secure his Station there, or at least to sit easy in it?

FINIS.

IV.

FUNERAL SERMON.

May 12, 1709.

A

SERMON

Preached in

Trinity Church in New-York,

In *America*, *May* 12, 1709.

At the Funeral of the Right Honourable

John LORD Lovelace,

Barron of *Hurley*,

Her Majesties Capt. General and Governour in Chief of the Provinces of *New York & New Jersey*, and the Territories and Tracts of Land depending thereon in *America*, and Vice-Admiral of the same.

By *William Vesey*, A.M. and Rector of the City of New-York.

Printed and Sold by *William Bradford* at the Sign of the Bible in *New-York*, 1709.

A

SERMON

PREACHED

At *Trinity Church* in *New-York*, &c.

Psalm XXXVII. and the 37 Vers.

Mark the Perfect and behold the Upright, for the End of that Man is Peace.

DEATH, Elegantly call'd, The End of Man, is naturally represented to us in such Grim and Ghastly Idea's, as render our Expectations of his Approach full of Horror, full of Misery, as surrounding our Life with an Army of Diseases, causing violent Agonies, trembling Limbs, distorted Eyes, Fallen Jaws, horrid Convulsions, lamentable Groans, mortal Pangs, and finally, seperating the Soul from the Body, determining the fate of the Soul in Eternal Happiness or Misery, leaving the Corps to be attended in Funeral Pomp to the House appointed for all Living, with a solemn Train of Mourners, toled along the streets with the doleful Moan of a Bell, and at last to be buried in the dark and silent Grave, and turn'd into Rottenness and undistinguishable Dust. Therefore the Philosophers, with the greatest Application, exercised their Reason, to supply Mankind with such Considerations as might fortifie their Minds with Courage and Resolution to encounter the King of Terrors; yet

all their Arguments (duly examined) were no solid Foundation of Peace and Comfort in a Dying hour. But Divine Revelation, assisted by Omnipotent Grace, will support us under the burden of Mortality and Distemper, will unsting Death, and overcome the Dominion of the Grave. For hence, we are instructed to Govern our Hearts and Lives by the eternal Laws of Righteousness; and that a course of sincere and upright Obedience, thro' the Merits of Jesus Christ, will infallibly put us into a condition to wilcome Death and Judgment with Joy and Triumph. Mark then (and behold a Perfect and Upright Man) and you'll find his case vastly different from a bad man in the End; this is driven away with the Wind; that has hope in his Death, and finds Peace at the last.

Mark the Perfect, and behold the upright, for the end of that man is Peace.

In speaking to these words, I shall endeavour to shew,

1st, Who is the Perfect and Upright Man.

2dly, What is the end of every Man.

3rdly, What Peace a Perfect Man finds in his end.

1st, Who is the Perfect and upright Man?

No meer Man since the forfeiture of Original Innocence, and so long as he is Incloister'd in a Tabernacle of Flesh, infected with the Leprosie of Sin, can attain such a degree of Piety and Vertue as to be absolutely and compleatly Perfect, and refin'd to such a height of Purity, as to be intirely free from all Mixtures and Allay's of Corruption; yet according to the Grace & condescention of the Gospel, that man is accepted by God in a blessed Mediator, [as perfect] who

1. Acquires the Knowledge of the Divine Will, and fixes in himself Resolutions of being govern'd by it.

2. Who perseveres in this Knowledge & Practice to the end.

1. The Perfect Man acquires the Knowledge of the

divine Will, and fixes in himself Resolutions of being Govern'd by it. He makes a diligent Search after Truth, and upon this Eternal Foundation he raises the Superstructure of his Practice, and is ready to give to every one a Reason of the hope that is in him.

He firmly believes and acknowledges a God, a Being, having in himself all imaginable Perfections in the highest degree, who is his Creator, Law Giver and Judge, & has enforced his Laws on him by the sure and certain Sanction of Rewards and Punishments; and to whom he is accountable for all the Good or evil he does, and from whom he expects to receive his final Doom of Happiness or Misery: Him therefore he will Fear, and Love, Honour and Obey, Serve and Worship in private and publick. Him he will pray to, and offer up Praises for every good thing, and endeavour to please in Heart and Life: In short, he entertains suitable Apprehensions of God, and Affections towards Him: and these he expresses outwardly, by such Words and Actions as are consonant and agreeable to the Revelation of his Will.

He is moved in the Orb of Religion, not by the poize of vain Glory and the wheels of external Advantages, but by this grand Principle, That 'tis his Duty to be Religious, That an omniscient God is the Inspector and Judge of all his Thoughts and Actions, and will one day bring every work into Judgment with every secret thing, and then he shall be rewarded, according to his works.

With respect to man, he is intirely righteous, rendering to Superiours, Equals and Inferiours, their Due. He is plain and honest in his Conversation, abhorring all Lying and Dissemulation, all false Testimonies of Persons or things, all serpentine Windings and Turnings, all insidious Tricks and cunning Craftiness, and all disguises and false Appearances in Word and Action. His Heart and Tongue, Profession and Practice are always Consonant and agreeable, and therefore he takes no care to dawb himself with Paint and

varnish, being confident that the more he's known and observ'd, the more highly he will be approv'd and commended by all wise and good men.

In relation to himself, he is sober and temperate, exercising a perfect Empire and Dominion over the Corruption of his nature, and it's vitious Inclinations, the perversity of his Will, the violence of his Passions, the disorder of his Appetites, the prevalent influence of Sence, and every darling and predominant Sin, which he had a strong tendency to commit, from Nature or Custom; in a word, he mortifies the whole body of Corruption, with all irregular Desires; crucifies the Flesh with its Lusts and Affections; cleanses himself from all Defilement of Flesh and Spirit, from all Carnality and Hypocrisie, governing his Spirit, Soul and Body by those excellent Rules imprest on him by Nature and Revelation. But

2. A Perfect and Upright Man perseveres in this Knowledge and Practice to the end. He adhears to his Duty without the omission of any part, having an equal and universal respect to all Gods Commandments, because the same reason that obliges him to observe one, obliges him to observe all the Laws of Religion; He also persists in his whole Duty, with Faith & Patience, all the days of his Life, ever regulating his Thoughts, Words and Actions, according to the dictates of Conscience, the Rules of right Reason, and the declared Will of God. Here he stands as firm and unalterable as a Rock: Neither the Devil nor his Agents, neither Threats nor Promises, Hopes nor Fears, Pleasure nor Pain can divert him from his Duty, either to the right or left hand; his Integrity and Perfection, (the highest accomplishment of his nature) is as well a sheild of Defence and Safety in his hand, as an ornament and Crown of Glory on his head; by this he baffles and defeats all attempts that are made upon him, to offend his God, to injure his Neighbour, or wound his own Soul.

Thus, with perfect and upright *Job*, he fixes in him-

self this Noble Resolution, and then resolves to make the Resolutions good, till he dyes; he will not remove his Integrity from him; his Righteousness he will hold fast, and will not let it go; his heart shall not reproach him as long as he lives, *Job* 27. 5. 6.

Thus I have, as plainly and briefly as I could, Characterized a Perfect and Upright Man; he is one that acquires the knowledge of the divine Will, and fixes in himself Resolutions of being govern'd by it; and perseveres in this knowledge and practice to the end.

I am to shew, *2dly*, What is the *End of Man*.

The end of Man is no other, in the Language of the *Psalmist*, than the time of his Death, which *Solomon* also in *Eccl.* 7. 2. calls, The End of all Men; and so it is in two respects.

1. As it dissolves the Union of Soul and Body, and puts an end to this life.

2. As it is an entrance into an Eternal and an unchangeable State of Happiness or Misery in the next World.

1st. *Death* is the end of Man, as it dissolves the Union of Soul and Body, and puts an end to this life. *Death* puts a final period to the Offices of Magestrates and Ministers, to the several Vocations wherewithal Men are call'd, and to the work and business of every man, whether in a high or low degree, to all their Projects and Designs, Labour and Industry, for the making provisions for another World, or obtaining the good things of this.

Again, all the Comfort and Delight, Pleasure and Sanctification, which men find in their wordly enjoyments, will then be at an end for ever; for their love of these things will then perish, neither will they have any more a portion for ever in any thing under the Sun, *Eccles.* 9. v. 6. And as it puts an end to all the joys, so likewise to all the Miseries of Life, occasioned by original Sin, the vanity of the World, the ill Impressions of Nature, and the Elements, the Tempta-

tions of the Devil, the Wick-ness of Man, the frailties and infirmities of human Nature; instates them in a perfect insensibleness and cures them at once of all their Diseases. For in the Grave (as it is pathetically exprest by *Job*, Chap. the 3d.) *The Wicked cease from troubling, and there the weary are at rest;* there the Prisoners rest together, they hear no more the voice of the Oppressor; the small and great are there, and the Servant is free from his Master.

In fine, *Death* puts an end to all that either good or bad men can do or suffer, in reference to a happy or miserable Eternity.

This world is the School of Tryal and Probation for the next, and nothing but the good or evil we do here shall be brought into our future account; *for every one must appear before the Judgment Seat of Christ to receive according to what he has done in the Body,* suitable to the Condition his work is in, when Death calls him hence.

Nothing is to be done by or for any in that intermediate space or state of seperation; *for there is no Work, no Device, nor Knowledge, nor Wisdom in the Grave.* Eccles. 9. 10.

2. *Death is the End of Man,* not only as it seperates the Soul from the Body, and puts a Period to all the Actions of this Life; but as it is an Enterance into an Estate of *Happiness* or *Misery*, never to be alter'd. For tho' the earthly Tabernacle of the Body (being dissolv'd) falls into dust, into a state of Silence and Insensibility; yet the Soul does not cease to be, nor cease to live, but only forsakes her former Habitation, and survives the funeral of the Body.

CYRUS, a learned *Heathen,* in his dying hour, could thus Divinely address himself to his Children, *Do not imagine that when I depart, I shall be nowhere; for whilst I was with you, you could not see my Soul, only ye knew by the Actions ye observ'd, that it was in my Body; be assured, that it is still the same, tho' ye do never see it.* And the great author

and finisher of our faith, over and above the Evidences of a future State, from the Dictates of Conscience in Mankind, from the Law and the Prophets, has most fully revealed Life & Immortality, by the Gospel, whereof he has given the highest assurance to Mankind, in rising from the dead, and visibly ascending up to Glory; and therefore though the Body returns to the Earth, the Soul ascends to God, the Author of its being, who knows where all the Particles of Matter, whereof the body consisted, are dispersed; what various changes and alterations they have suffered, and at last resolv'd into their proper Elements, can by his Omnipotent Arm, and (from Divine Oracles, 'tis infallibly certain) will recollect them, and re-unite the same Body (refined and spiritualized) to the same Soul, and then both shall be eternally *happy* or *miserable* beyond conception, according to the good or evil done in this world. But in the state of Seperation, the Body sleeps on, in the dust, till the Morning of the Resurrection; and the Pious Soul, immediately after she is stript of Flesh and Blood, having the natural strength and vigour of her own legs and wings, and Conducted by great and good Angels, with unspeakable Nimbleness and Alacrity, soars aloft to the Eternal Regions. With what Extasies and Raptures! with what Admiration and Triumph does she enter the Gates of *Paradice*, received graciously by *God* and the *blessed Jesus*, congratulated by *Saints* and *Angels* with Acclamations of Joy!

Here she's happy in her own most excellent Qualifications, happy in the Society of all the Cælestial Inhabitants; most happy in the Vision and Fruition of God, *in whose Presence is fulness of Joy, and Rivers of everlasting Pleasures.*

And on the other hand, *Wicked Souls* survive the Body too, but in very great Misery, being tormented with *Horror* and *Amazement, Trouble* and *Anguish*, and the Worm that never dyes, in their Hellish Prisons, where they are reserved with *Devils* and *Damned*

Spirits, in *Chains of Darkness*, to the *Judgment* of the *Great Day*.

Thus good and bad Souls are very *Happy* or *Miserable*, in a seperate state, in such a way as is suitable to their Condition: But when *God shall judge the World in Righteousness, by that Man whom he hath Ordained*, when the *Arch-Angels Trumpet shall sound, aud the Dead shall be Raised*, Every seperate Soul shall be united to its own Body, and then Soul and Body being re-united, shall, according to what has been done in this World, be inconceivably *Happy* or *Miserable* for ever. All this is included in the End of Man.

3^{dly} and *Lastly*, It remains to consider, *What Peace every Perfect and Vpright Man finds in his End.*

The divine Oracles are interspersed with *Promises* made to the *Perfect Man: Promises* more in Number than the Stars in the Firmanent, and in Quantity and Quality exceeding great, exceeding precious. God, the Fountain of all Felicity, is his God, embraces him in his everlasting Arms, smiles on him in the Methods of his Providence, Corrects him with the Chastizements of a loving Father, Comforts him with his Rod and Staff, Conquers his Fears, Metigates his Sorrows, supplies his Wants, and satisfies his Desires, and orders all Dispensations, both pleasant and painful, to co-operate to his temporal and eternal Good.

Thus the *Psalmist* comprehends all the Blessings of Time and Eternity in one Promise to the *Perfect and Vpright Man*; for *The Lord is a Sun and a Shield, the Lord will give Grace and Glory, and no good thing will be with-hold from them that walk uprightly* Psal. 8. But the Top, the Flower, the Crown and Glory of all, is this, he finds *Peace at last!* He can think of *Death* without Dread and Consternation; nay, is reconciled to the Thoughts of Dying, by the mighty hopes of a *Glorious Immortality*; is willing to leave all the *Enjoyments*, as well as all the *Sufferings of Life*, and in the firm and well-grounded

Expectation of the *Resurrection of the Body* and *Eternal Life*, can lay down his head in Peace.

There is essentially founded in the very nature of good and evil, such a Conformity or Contradiction, to the dictates of a well informed Conscience, that men immediately have a grateful and pleasant Relish of the *blessed Fruits of Peace* and *strong Consolation* in the performance of their Duty; but in the Violation of the Divine Law, they suffer the *Miserable Reflections* and *Condemnations* of their own minds. How then is it possible for a Wicked Man to find Peace in a Dying hour, except his Conscience is judicially hardened, or fatally deluded with groundless expectations of Peace? For God has declared, *That there is No Peace to the Wicked.*

When the Sinner is bound on his Bed, with the Cords of Affliction; when his sins are set in order before him; when inexorable Death approaches, and a Hell of everlasting Torments is following; all the advantages of the World can't relive him under a quick and lively sence of Guilt; can't metigate the pain and heal the Wounds, nor appease the Crys of Conscience, nor buoy up his Spirit, now sinking under the dreadful apprehensions of Eternal Judgment. Whereas the Conscience of a good man, with the concurrent Testimony of the holy Ghost, assures him, that he has endeavoured to please God by a sincere and a constant observance of his Laws; that with simplicity and Godly sincerity, he has had his conversation in this World; that the Guilt and Punishment of Sin, is remitted, and his Pardon sealed by the blood of Christ, and all his imperfections covered by his Righteousness, wherein he is accepted, as holy, at the Tribunal of Heaven; That the Saviour of the World has delivered Believers from the slavish fear of Death, by dying on the Cross, and from the Dominion of the Grave, by rising from the Dead, and is *now become the first Fruits of them that sleep*, and of that universal Harvest, which is to follow, when the seeds of all flesh

shall be collected, the good Grain to be treasured up in the Granary of Heaven, but the Chaff to be committed to everlasting Fire; and in this *Christian Hope* he can triumph over Death, as St. *Paul* does, *O Death! where is thy Sting! O Grave! where is thy Victory! The Sting of Death is Sin, and the Strength of Sin is the Law; but thanks be unto God, who gives the Victory, thro' our Lord Jesus Christ*, 1 Cor. 15. 'Tis true, some very good Men, fall into Melancholy and disorders, horror and annexiety on a Death Bed, and are apt to judge themselves in a state of Damnation; but these men shall not be condemned for all that, but as soon as they are set Free from the Prison of the Body, all these mistaken Notions and unreasonable fears shall vanish, and they immediately will find themselves in a very happy Condition, all Clouds dispersed, and the Light of Gods Countenance, shining upon them, with a very surprising, but a very pleasing and ravishing Glory. But every good Man, rightly understanding himself, and the grace of the Gospel, even in this Life, and at the hour of Death, when he is about to put off this mortal Body, and to pass off the stage of Action, may have such a full assurance of Hope as will diffuse a blessed Calm, a bright Serenity in his soul, which is a dawning of the day of Glory; upon the top of this he stands (as *Moses* did on *Mount Pisga*) surveying the fruitful Soil and everlasting Rivers of the heavenly *Canaan;* from hence he views those blessed Mansions, possest by the innumerable Company of *Angels* and the *Spirits of Just Men made perfect.* In a word, with the Prospective of his Faith and Hope, he beholds, with delight and wonder, the *Rest remaining for the People of God; the Inheritance incorruptible and undefiled, reserved in the Heavens; that Kingdom which cannot be shaken, and the Crown of Glory that fades not away; with St. Paul, having fought his Fight, finished his Course, and kept the Faith* (by the pledge and earnest given him) he knows that he is now going to receive a very

great, a very *glorious Recompence of Reward, which God the righteous Judge will give him at Death*, 2. Tim. 2. 8.

Hence it is, that with joy unspeakable and full of glory, he resigns back his frail Body to the Dust to sleep on, with an intire Indolence, in that Bed of Hope, till the Day of Redemption; and his Soul departs undauntedly out of its Earthly Tabernacle, into the World of Spirits, lifts up itself with confidence before God, from whom he receives this blessed Sentence, *Well done, good and faithful Servant, enter thou into the joy of thy Lord.*

And at the end of the World, the Redeemer of Mankind, who was dead, and is now alive for evermore, shall raise up his Body from the Grave, and beautifie it with eternal Ornaments; then Body and Soul being re-united shall be perfectly happy, in the enjoyment of an everlasting Peace and Tranquility, shall dwell for ever in the *New-Jerusalem*, the City of Peace, where the Prince of Peace reigns, whose Subjects, both Saints and Angels, tho' shining with different Rays of Glory, are by an inviolable Chain of Love united in all their Understandings and Wills.

Here that *Peace of God which passeth all Vnderstanding*, Reigns and Triumphs! A Peace comprehensive of all that good, which *neither Eye hath seen, nor Ear heard, nor the Heart of Man conceived!* A Peace more valuable than Crowns and Scepters! A Peace which the World cannot give, a World cannot purchase! but is the certain Recompence of Reward, which every good Man finds in the End.

AND now to accomodate all to this Mournful Occasion of this Day's Solemnity,

Almighty God has been pleased, in a suddain and surprizing manner, to remove by Death, the Right Honourable *John* Lord *Lovelace*, Barron of *Hurley*, our excellent Governour, who, no doubt, was a Pattern of *Christian Perfection*, according to the Grace

and Mediation of the Gospel: He, indeed, is delivered from the Miseries of this Life; and we have all the reason in the world to hope, is translated to a state of Rest and Peace, of Bliss and Glory; But DEATH, in his Removal, has given a fatal Blow to his Noble Family, and these Provinces, once happy under his faithful and prudent Administration, and we must be marvellously stupid and obdurate, if we are not alarm'd at the Judgment of God.

I was once almost resolv'd against Funeral Panegyricks, as being full of Difficulty, full of Censure; but on this extraordinary Occasion, Duty obliged me to assist with fragrant Spices, in Enbalming the blessed Memory, to strew Flowers on the Hearse, and to shed some Tears at the Funeral Obsequies of so great, so good a Man.

The Righteous shall be had in Everlasting Remembrance.

The Portraiture I shall present unto you, is drawn (to avoid the guilt of Mercinary Flattery) not by Fancy, but credible Observations of those Vertues which adorned his Mind, and were conspicuous in the whole sphere of his Activity.

The supream Governour of the World seem'd to have Mark't out this deceased Peer of *Great Britain* even in his early Days, to have made an Illustrious Figure, and to have been an Instrument of much good to Mankind; for Nature had endow'd him with a Magistick and amiable Countenance, an obliging and grateful Disposition, a generous Spirit, and yet a humble Mind, quick Apprehensions and a sound Judgment.

His natural parts, being considerably improved, by Conversation and Study, in the University, as he was eminently qualified for Publick Imployments, so the Providence of God soon introduced him on the stage of Action.

Our Dread Sovereign Queen *Anne*, after he had done considerable service for his country, both at

Home and abroad, was pleased to commit to his Government the Provinces of *New York* and *New Jersey*, whose Inhabitants however divided among themselves, universally conspir'd to love and reverence his Person, and to express their Satisfaction, under his just and benigne Conduct.

His Conversation was without Ceremony or hypocritical Courtship, free and open, familiar and condescending; which to a Person of his worth could not but at once gain love, and command due Reverence and Respect.

If we reflect on his relative Virtues, we shall find, that he has been, to his Soveraign a faithful and useful Subject; to his Lady, a most obliging and Compassionate Lord; to his Children, an Affectionate Father, and Solicitous for their Happiness: To his Servants, a prudent and gratious Master; and for the decent and comely Order of his Family remarkably Exemplary.

Faithful to his Friends, grateful to his Benefactors, sincere in his Promise and Profession, just and honest in his Dealings and Courteous and Charitable to all.

As to his Religion, it is well known that he was a *Protestant* of the *Church of England*, (a Church for Doctrine and Discipline, the best constituted and most reform'd in the World,) and this, he often declar'd both in Health and Sickness, that tho' he had Charity for those that dissented from the Establishment out of Conscience; yet as he had been born and educated in the Church, so he would to the utmost of his Power endeavour the advancement of her interest: He never thought Religion any stain to his Honour, but the Reverse, the venerable Ornament of his Nobility; his Practice was consonant to his Profession: for, in one word, he behaved himself Piously towards God, righteously towards Man, and exercised himself in an Ascetick Vertue and Temperance.

Thus he lived.

And as for his Sickness and Death, he endured both, without Murmuring and Complaint, nay, with Patience and Submission to the Will of God.

Altho' he had all the reason in the World to be fond of living and unwilling to dye, being a Favourite of Providence, happy in a Lady, admirably adorn'd by Nature and Grace, and in a hopeful offspring, and entertaining a fair Prospect of all temporal Advantages, notwithstanding he seem'd intirely resign'd to the most wise Disposer of all Events.

Finally, like a good Man, full of Faith and Hope, Love and Peace, gave up the Ghost expecting the Reward of Glory, Honour, Immortality and eternal Life.

To conclude, we who survive, are mightily concerned to transcribe his eminent and bright Virtues in our Lives, and in an Evangelical Perfection, to follow him, and all the Saints, that have departed this Life, in Faith and Peace; That we with them may be partakers of the Kingdom of Heaven thro' the Merits and Mediation of Jesus Christ; To whom, with the Father and the Holy Ghost, Three Persons, and One God, be Glory, now and for ever, AMEN.

FINIS.

V.

REV. JOHN SHARPE'S PROPOSALS, ETC.

MARCH: 1713.

"Proposals for Erecting a School, Library and Chapel at New York." 1712–13.

(MSS. 841.) Lambeth Palace Library.

New York: March 11th, 1712/13.

That this Voyage which I now undertake may in some measure contribute to the glory of God and the good of his Infant Church in these parts/ (wherein I have now spent twelve years/) I am resolved by the assistance of his divine Grace, when I arrive in England to promote to the Utmost of my power these three things.

1 A Publick School
2 A Publick Library
3 A Catechising Chappel.

There is hardly any thing which is more wanted in this Country than learning there being no place I know of in America where it is either less encouraged or regarded.

The City is so conveniently Situated for Trade and the Genius of the people so inclined to merchandise, that they generaly seek no other Education for their children than writing and Arithmetick. So that letters must be in a manner forced upon them not only without their seeking, but against their consent, and there is no doubt but as the youth are very Ingenious, Subtile and of quick Capacities, it would in a short time gain upon their inclinations. the Improvement of a few would stir up Emulation not only in the Children but in their parents, and the happy influence would reach the most distant parts of the province. It is usual at this time to send Children from Albany and Esopus 100 & 150 miles distant to New York to be taught

English and it would no doubt increase the number of such if they could at the same time have the opportunity of learning Latine &c, and a Regular or Academical formation of their principles and manners. This would reconcile them early to the National Church and we might hope that in the rising Generation there would be Unity, Uniformity, Loyalty, and Brotherly Love.

To this end these four things would very much contribute.

I. A proper person to teach
II. A convenient house for a school
III. A well chosen Library
IV. A set of good Rules and orders.

I. The PERSON to whom the care of this school is committed must have these qualifications.

1. He must not be too young for this would render him lyable to be despised by the youth who sooner arrive to a ripeness of Judgement than in other parts and besides by the too great fondness and indulgence of their parents are apt to be insolent.

2. He must be of an even temper, neither too easy nor too severe, the first would make them insolent, the other would discourage or exasperate them, being as I have observed very much humored by their parents.

3. He must be a person of great diligence and application for as the youth are very capable, so their parents expect improvement answerable. And being early put out to trades and business they cannot spare so much time as in other places.

4. He must be of sufficient learning having a genius peculiarly adapted to that calling, so as to make it his pleasure to instruct them.

5. It may be well if he is a married man that he may keep some boarders in his house who will be sent not only from all parts of the Continent, but from the Islands of the West Indies.

6. If he understands Dutch and French it will be of great advantage to him. But above all let him be a person of a grave and sober conversation which will carry authority and command respect, and let his zeal for God's honour be his chief motive to this undertaking, this will give him comfort under all the discouragements he meets and will enable him to conquer the many difficulties which certainly attend the beginning of all good works.

II. PLACE.—The second thing is the place than which none is more fit than the City of New York. All will acknowledge this who have not particular views or by ends to serve. The air is serene and healthful, the country round is well setled, and there is greater plenty of all things necessary for life and better convenience of boarding than in any other place on the Continent, besides a collateral advantage of learning both Dutch & French which are very useful accomplishments to scholars, as well as to travellers or traders.

It is possible also to learn Hebrew here as well as in Europe, there being a Synagogue of Jews, and many ingenious men of that nation from Poland, Hungary, Germany, &c.

There are severall fit places to build on about this city, as a vacant space between the English Church and the Stadt house, another within the stockadoes, of the fort, a vacant Lott belonging to the Queen at the Fort gate all within the walls, also a large common without the walls, having the advantage of a higher situation and the vineyard belonging to my Lord Limerick to be sold on easy terms.

1. The house I would have of a convenient bigness to contain at least 150 with a wall round it to prevent gazing from doors and windows and so situated as not to be lyable to the noise of the Streets to draw off their attention.

2. One side of the area may be a lodging for the master, i.e. an upper and lower room with a small kitchen.

3. On the other side a lower room of the same dimensions kept furnished as a lodging room for the Clergy when they come out of the country, the key to remain with the school master.

4. The room over this having a stair on the outside may be proper for the publick library.

III. LIBRARY.—The third thing is a Library which may be the same with the publick or provincial Library hereafter mentioned.

IV. RULES.—The appointing rules and orders for the better Government of this school and forming the minds and manners of the Youth I shall leave to the wise and learned, humbly offering that there may be a special regard had to the daily devotion, and serious observation of the Lord's Day.

1. Let there be a prayer used in the morning and at night, taken out of the publick form of the Church, and adapted to the use of the school, and this to be recited by the master with gravity and devotion.

2. That two chapters morning and night be read before prayers by the schollars and . . .

3. That every Holyday they meet to go to Church in a body, and in the afternoon of the same day an hour at school be spent in catechetical exercises. This will help to retrieve the Honour of these days so profanely perverted in this wicked age to Idleness and Ryoting.

I have heard the parents often complain of the multitude of Holydays pretended at School; by which their children lost much of their time, yet I am persuaded were the days religiously observed they would not grudge those appointed by the Calendar which would give them only a moderate relaxation, but no Indulgence to Licentiousness.

4. That above all they be taught to sanctify the Lords day which alas! is but very little regarded in all places of the country. The laws of the land do restrain all servile labour on this day and so farr it's not transgress'd, but then its consumed to worse pur-

poses, viz^{t}: idleness and drinking, play and wantonness. The Dutch for the most part pretend to follow their great writer Cocceius, and allow only that part of the day which is set apart for publick divine service, when that is over its usual to see the men walk on the change, the children and negroes playing in the streets, and in the country trap-ball, bowling and the like, this I have often observed with great concern and believe it may be more easily prevented for the future by a religious Education than remedyed now. If the minds of the youth are tinctured with a religious concern for the honour of times, places and persons set apart for the more immediate Service of God, we may reasonably hope to see a visible reformation of manners. If the youth that are now the main actors in these disorders are taken off and reclaimed, what may we expect when they come to be masters, parents, heads of families and magistrates in the land, but that like zealous Joshua they will resolve and do, I and my house we will serve the Lord.

To this end it were proper when they come from Church that they meet in the School and spend an hour or more. Let the master read some Catechetical instructions as Hammond, Bray, Newcome &c. Let them read in order a chapter of the whole duty of man, some chapters of the New Testament, and conclude with psalmody and prayer, and so return to their homes with impressions of holiness upon their hearts, to sanctify the evening in the several families to which they belong.

So much for the School or rather an idea of a School to be improved and made fit to be presented to charitable and well disposed Christians both here and in Europe by N. N. &c.

THE LIBRARY.

Another thing which is very much wanted here is a publick Library, which would very much advance

both learning and piety. Such there are at Charles Town in Carolina, Annapolis in Mary Land, at Philadelphia and Boston. Some books have been formerly sent to New York but as parochial they remain in the hands of the Incumbent.

1. This Library I would have to be publick and provincial and to be open every day in the week at convenient hours.

2. That all men may have liberty to read in the Library at these hours.

3. That any person borrowing a book shall be oblidged to deposit a certain sume of money which shall exceed the value of it and in case the book is not restored at the limited time, this money to be forfeited to buy another.

4. That no book shall be lent for a longer term than a year where the distance is greatest.

5. That the light of the Library and use of the books be given gratis, but every person borrowing shall sign to a receipt or obligation to return it at such a time and for this the Librarian shall receive 6d.

6. A book of subscriptions, benefactions, &c., to this Library shall ly on the table where it may be lawful for others to subscribe books or money.

7. A Catalogue of this Library signed by the Governour, the Mayor of the City for the time being and one of the Clergy shall be lodged with the keeper of his Grace the Abp. of Canterbury's Library at St. Martins.

8. The Governour, the Mayor of the City, and one of the Clergy shall visit this Library once every three years, and certify the Improvements or Embezelments to the Trustees in England, to be appointed by his Grace the Archbishop of Canterbury and the Bishop of London.

9. In this Library, may be copies of the Catalogues of the several parochial Library's that where the publick may be deficient the studious may be supplied elsewhere.

10. In this Library also may be a Repository of all such Rarities as the Country produces, or are brought hither from other places to be communicated to the Ingenious in Europe. There may be also a small garden of rare and exotick plants to send yearly some to the curious in England and have others in exchange.

To lay a foundation for this publick and useful work will be required the assistance of the charitably disposed not only here but in England. There are some here who are well inclined to good works; but the undertaking looks so formidably great (at first) that something must be done to make it seem possible and there is no doubt but (with God's blessing) it may be accomplished if a beginning is once made.

To that end, as I have already observed a room in the public School, over that which may be a Lodging for the Clergy may very well serve to contain this Library and upon many accounts it will be the most convenient for

1. It will be only the charge of two foot more of a wall the same buildings coming under one roof.

2. It's convenient for the Clergy, being so near to the Lodging room appointed for them.

3. Those who come to see the Library can see the school and being one building a key of the Library may remain wth the school-master.

4. It will be a motive to the Industry and application of the scholars when they see so good provision made for their studies.

For a foundation or beginning to this Library I have long since resolved to give all my own books, which I now have or may have at the time of my decease or leaving of that country, which shall be put up in it how soon it is fitted to receive them, and appropriated by a deed of gift under my hand to the Trustees for the Library, carrying on the titlepage or cover such inscription, badge, or impression as the Trustees shall appoint, reserving to my self during life or stay in

the countrey free access to the Library and leave to borrow of such as I want to my own house, under the same restrictions and limitations as others are or may be by subsequent rules or orders. So God prosper the work. A Catalogue of my books is at the End.

To these a considerable addition may be made by buying in the best books found in the Library's of the Reverend Mr. Lydius deceased, Mr. Selyns, the Rd. Mr. Beys. There is a small collection of Physick and Surgery in the hands of the Heirs of Dr. Gaudeneau deceased, and a certain expectation of many volumes by donations, legacies &c. when there is a place to put them in, and a beginning once made. An Act of Assembly can be also easily obtained to secure them as shall be thought proper.

3. A Catechising Chappel.

It is about ten years since the Venerable Society for the Propagation of the Gospel in Foreign Parts, out of their tender concern for the souls of the Indians and negro's who are Slaves at New York appointed M Elias Neau to instruct them in the knowledge of Jesus Christ and Salvation thro' him.

Mr. Neau the person employed in this truly charitable work is certainly the best qualified for it of any could be found upon these accounts.

1. He is a person of great humility which is the foundation of all virtue. He can condescend familiarly to discourse with those poor slaves, who are put to the vilest drudgeries and consequently esteemed the scum and offscourings of men. He can take pains to accommodate his discourse to their capacities whilst he inculcates the great truths of the Gospel and the duty required of them and makes himself so understood by them that many of those who attend on his exercises can give a very rational account of the grounds of their faith in answer to such questions as may be proposed out of the common road of catechising. This I

have observed in many whom I have examined in order to Baptism.

2. He is a person of great zeal for this pious work. It was this which prompted him at first to the undertaking upon the bare allowance of 50l p annum, when in the way of trade being a merchant and in considerable business, he could have cleared three times that sume yearly. Yet he willingly divested himself of his secular affairs that he might the better attend on this.

3. He is of unwearied diligence and application. He has taken great pains in collecting out of such as have wrote on the Church Catechism and digesting into form the Historical part of the Scriptures for the use of his Catechumens many of which who cannot read, can yet repeat the History of the Creation, the flood, the giving of the Law, the Birth, miracles, crucifixion &c of our Savr and to this purpose he always reads Scriptures at his exercises, besides the frequent quotations and concludes wt singing a psalm and prayer.

4. No doubt his being a confessor in the Galleys, and prisons, for the faith he labours to instruct them in, gives him great advantage. They know he was in earnest resisting unto blood for the truths of the Gospel, many of them can remember his seven years absence from his family upon that account, and conclude there must be great comfort in that Religion, which supported him under so great tryals and—

5. Lastly his resolution and perseverance in the work has been truly wonderful. They see him hated and ridiculed and even spitefully used by his Christian brethren for this works sake. They hear their masters and others confidently assert and upbraid them that they have no souls, and they observe his care and concern for their salvation. They find him constantly attend his stated hours of Instruction be there many or few that come to hear him; and that he stands a champion for the Christian Religion against

all the insults and blasphemous reflections of those, who yet pretend to expect salvation by it.

They see him creeping into Garrets, Cellars and other nauseous places, to exhort and pray by the poor slaves when they are sick, and are seriously persuaded he seeks their eternal happiness by such constancy and unweariedness in his labors and above all they observe his sober and religious deportment, the seriousness and severity of his life, and that his family is a little chappel where the praises of God are celebrated by reading prayers and singing three times every day, and that his house is full of hospitality and good works. And while they have so bright an example its possible that notwithstanding all discouragements some will be brought to a love of that religion which makes men so eminently good. But yet there are difficulties to be removed, which have hitherto retarded the great progress that otherwise might have been expected from a person so qualified and subjects so capable of instruction.

Some of the chief impediments are :

1. An unwillingness in their masters to have them made Christians.

2. The inconvenience of the time allowed them to attend on instruction.

3. The inconvenience of the place where they meet being too small.

4. Want of zeal in many of themselves which proceeds from the slender regard had to them, more than before Baptism either in Civil or Religious respects.

There are some other unavoidable inconveniences at present which wise men in time may find a remedy, against, such are polygamy, the sending away one of the married parties to foreign countries, unequal marriages, &c.

1. The first hindrance to the truly pious work of Christianizing these poor Barbarians is an unwillingness in their masters that they should be so. Were it not a thing so notorious, I should blush to observe

that any set of men pretending to the belief and hopes of the Christian Religion could act so opposite to that Heavenly Institution and its brightest character, Love or Charity. Nor can I think any are to be allowed so much as a base pretence to that glorious appellation, who do not heartily pray and also endeavour to the utmost of their power that the ways of God may be known upon earth and his saving health among all nations. Yet certain it is such an unwillingness in the masters, hath hitherto very much retarded the work and defeated the wishes and expectation of the Charitable Society as well as the labours of their painful Catechist.

i. The grounds of their prejudice against it are a vile conceit that the negroes have no immortal souls but are a sort of speaking brutes destined by God to a state of servitude. At the same time they will urge it as argument for this that they are the seed of Cain (their complexion is the mark) and such like ridiculous notions, but then they are at a loss how to make the soul mortal when they confess it the same with that of Cain and Adam, and unites all nations black and white in the original stock, or father of all mankind.

ii. Another formerly was that Christianity would make them free, but this exception has been taken away by an act of assembly ratified by her Majesty by which its ordained that they remain still the property of their masters, notwithstanding Baptism, and there are not any of the negroes so ignorant as to desire it upon any such pretence or to pretend any freedom by it, but some Spanish Negroes and Mulattoes, Christians and freemen in their own Country who have been taken prisoners during the wars and contrary to the Laws of Arms and the custom of Nations have been sold at New York, and remain in servitude. This is a thing so known that the Governour of Hispaniola has for several years detained some of our people prisoners by way of reprisal for the free negroes so kept at New York. But yet did any of

the negroes desire Baptism—with such a secret hope, the property of their masters is still safe while guarded by such Laws as were made on purpose to take off this exception.

iii. Another is that Christianity makes them rather worse than better, which blasphemy, some stick not to urge as a reason why they neither instruct them themselves nor allow them to be instructed. That they are eventually worse who are not really better after such clear discoveries and strong motives and assistances to perform the obligations of Christianity is allowed, but then this equally affects the master as the slave and it can be no argument more against instructing the latter than preaching to the former that the influence of their faith is not seen in their practice.

The great Enemy of truth and goodness has made this a popular objection in all ages of the Church, tho if men would wipe prejudice from their eyes, they may everywhere see some witnesses whom God raises for himself. There are at this time in this very place some of these poor despised proselytes, who by the confession of their masters do walk according to the Christian profession, so that one of them and he no friend to the design of Christianising them, said he wisht himself as good a Christian as his slave was, whom he always found either at his work or devotion either with his book or the boulting miln.

[The Revd. Mr. Mackenzy, who is zealously affected to this good work and diligent in it, gives an eminent instance of the holy life and death of one who was his own slave, worthy to be preserved as a standing evidence of this Divine Faith (which may put to silence the Cavils of unreasonable Men), that there is no respect of persons with God, that with him there is neither Greek nor Jew, circumcision nor uncircumcision, Barbarian, Scythian, bond nor free, but Christ is all and in all.—*Col.* 3 : 11.]

The late barbarous massacre attempted by the slaves, April, 1712, gave strength at first to this clamour which

had a full run for many days. The school was charged as the cause of the mischief, the place of conspiracy and that instruction had made them cunning and insolent. The Catechism and all that were known to favour the design were reproached, and the flagitious villany was imputed to the Catechumens. Yet upon the strictest enquiry and severest tryal where the bare affirmation of Infidel Evidences who are not capable of any other tye to veracity was sufficient to fix the guilt, there were not any found actors or accomplices in the Conspiracy who had duly attended the catechetical instruction, but two were accused one of which had been formerly baptised and he dyed protesting his innocence and was (but too late for him) pityed and declared guiltless even by the prosecutors. The other had made some proficience but was not admitted to baptism thro the reluctancy of his master whom he had often solicited for it. He was an eminent merchant and with his son were both murdered in the streets. This negro was hung in chains alive. I went to him after he had hung five days: he declared to me he was innocent of the murder with a seeming concern for his master's misfortune. He was often delirious by long continuance in that posture, thro hunger, thirst and pain but he then answered directly to what I enquired and called me by my name so that I might conclude he had some intervals of the exercise of his reason.

One would believe that such a happy instance as the innocency of the few who frequented the school should take away this prejudice, but it still remains and was last winter improved by imaginary plotts contrived on purpose by some ill men to hinder the good work which was by amusing the people to keep them within in the evening which is the only time they are at liberty from their masters employment to attend on the school. The devil finds his kingdom of darkness invaded, and rages because his time is short and its no wonder he stirrs up his instruments to oppose it.

2. The times are Wednesdays and Fridays and Sundays after Church. On Wednesdays & Fridays, the hours are very inconvenient being usually after the twilight or dusk of the evening which is shorter there to the West. Its that little space they have allowed them after hard labour in the day for relaxation, and when their bodies are fatigued, the attention of their minds cannot be supposed very great, they are then dull and sleepy and obliged to be stirring early to work next morning, but

3. The place is inconvenient, tho the best that can be got. Its the upper floor of Mr. Neaus own house —which tho as large as most in the city is not capacious enuff for such a number as often does come nor for the sixth part of the Negro and Indian Slaves in Town besides children and apprentices both English, Dutch and French who constantly attend and receive instruction there. None of the Churches can be allowed because of keeping them clean for the Congregations, and there is no other publick building convenient or capacious enuff.

4. The last impediment I shall mention is want of desire in many of themselves and is the least and most easily removed. It proceeds in some from stupidity, in others from vicious inclinations, but in most from the slender regard had to them—

i. In Civil respects, Tho Christianity makes us Servants to one Lord, gives us one faith and hope and unites us into one Society with the sacred tyes of Brotherhood, yet they find their usage the same, the appellations, the exactions, censures and severities. One thing I shall observe that by the Laws of the Country, the evidence of no negro can be taken against a White man tho the negro be a Christian yet the evidence of a negro that is not a Christian shall affect even the life of a negro that is a Christian in Criminals.

Again if a negro is a free man as many such are, and yet be no more a Christian than he was in Guinea

or Madagascar yet he has the same benefit of our Laws as an English man. Both these cases were evident in the aforesaid tryal. I should think if they had the benefit of our Laws after Baptism where life or member is concerned it would be no other than just and equal, the Jews have the same and I am of opinion it would be a motive to their diligence in attaining a sufficient measure of knowledge in order to be baptised.

ii. In Religious respects there is but litle regard had to them, their marriages are performed by mutual consent without the blessing of the Church and they are buried in the Common by those of their country and complexion without the office, on the contrary the Heathenish rites are performed at the grave by their countrymen, and there is no notice given of their being sick that they may be visited and many other such deficiencys there are to discourage them.

Some are kept off because of their polygamy contracted before baptism where none or neither of the wives will accept a divorce.

Others (the husband and wife seldom happening to belong to one family) have one of the married parties sold at some hundred miles distance where they can never hope to meet again and have not continence to persevere single.

Some agree to break by mutual consent their negro marriages as I may call it and marry a Christian spouse. In these cases its difficult how to proceed without giving scandal or matter of temptation.

If these impediments could be removed this glorious work would be more easily accomplished. If a considerable progress were once made and by the influence of good men some leading men were brought in the rest would of course be condescending and one would draw another.

The methods to induce the masters not only to give leave but encouragement to this work, I leave to be proposed by others, begging leave humbly to suggest as my opinion that

1. Some proper arguments in a sheet addressed to them with answers to the most popular objections and a pathetick invitation to them to promote the work would be of singular use, none such that I know of being in their hands.

2. A great deal may be done by the ministers to influence their several congregations and to that end if there were a monethly lecture preached by the Clergy of the Province in their turns, on these two heads, Reformation of Manners and Conversion of Infidels, it would soon be attended with visible advantages.

I hope in time (by Gods grace) a religious Society may be set on foot at New York, who may be very instrumental in promoting this good work for there are many persons both of power and probity well inclined to it.

Such a religious combination (if I may so term it) against the powers of darkness would soon bear down the opposition of the adversaries of the Gospel, and remove all impediments in the way to this desireable work.

And now considering all these impediments, its to be acknowledged of the Infinite goodness of God, that so many of these poor creatures have been translated from the power of Satan to God, He has in a very eminent manner prospered his own work, so that as near as I can guess, above a tenth part of the adult or a sixth part of those who can yet understand English enuff to be instructed have been received into flock and daily progress is made.

What I shall now propose and chiefly intend is what I conceive will be most conducing to promote this work, is a Catechising Chappel. This will quite remove the impediment from the inconvenience of the place and will give a favourable turn to the whole affair. The inhabitants will see how much this work is the object of zeal and care of pious Christians, and be convinced by such a demonstration of the necessity of their concurrence or being inexcusable before God

and man. They will in so publick a place have better opportunity of hearing them instructed, of seeing their proficience and even edifying by their exercises, and be brought to have a pious concern for the duty they now neglect. There is not any necessity of its being other wise furnished than with benches a small charge will compleatly finish such a building, and there may be ways found to keep it in fit repair. There might be reasons given why its most proper they have an oratory for themselves, I shall only take notice that the great distance at which they are placed in the Churches (if so much care is taken) is inconvenient for hearing.

It is very evident to all that live in this country or can form a notion of it, as of a rich soil overgrown with weeds, ingenious youth left uncultivated and tractable slaves left in ignorance and infidelity how useful these three things would be to the publick how highly advantageous to all ranks and degrees of men amongst us that there were a publick School, a publick Library, and a Catechising Chappel.

There are not any to be found who are so lost to all goodness as not to acknowledge the vast benefit to be reaped, but how to persuade them to be instrumental in accomplishing this great work is a matter of great difficulty.

The supply's to effect it must come from a distance, we are not able by ourselves, the neighbouring provinces will envy us this glory, we can expect nothing from them.

Its from the patrons of piety and learning in our mother nation of Great Britain, that we expect to be encouraged and assisted, till we have brought the work to a happy conclusion. There are many instances of their extensive charity and flowing beneficence even in time of warr, and we have reason to hope, that now the blessing of peace is restored, they will by all means seek to enlarge the kingdom of the prince of peace, Jesus Christ our Saviour by sending

the glad tidings of peace and Salvation into these remote corners of the earth. .

Its by no means to be doubted his Excellency Brigadier Hunter our good Governour will contribute generously to this good work which he has hitherto encouraged with an uncommon zeal as is seen in the addresses, letters and memorials of the Clergy and Catechist and by his printed proclamation. The Gentlemen of her Majesties Council and the Reverend Clergy will not be wanting when they find the work made as possible as its necessary. And the whole country when they once come to taste the benefit of it may make some suitable provision for it by settling revenues and such like donations, but its not possible in this juncture to see thro such a cloud of obstacles as at first view appear.

I have for many years exercised my thoughts about but could never come to a resolution of attempting it, till I could come over into England to wait on the pious and publick spirited members of the Catholick Church with this humble request of children, Indians and negroes and generations yet unborn who may under God owe to their liberality the means of their temporal and eternal happiness.

I shall gladly accept to be employed as a servant to so charitable a design and shall undertake and keep accounts of the work not questioning the assistance of some worthy persons in that place of whose pious zeal I have had long experience.

And, as the widows mite I will give for myself with a chearful heart to carry on the building of the Catechetical Chappel for Negroes and Indians, the sume of fifty pounds praying the Lord from whom all holy desires all good councils and all just works do proceed to bless the beginning, to further the progression and perfect the conclusion of them for Jesus Christ his Sake. AMEN. JOHN SHARPE

Chaplain to her Majesties Forts and Forces in the Province of New York in America.

A Catalogue of Books belonging to John Sharpe intended to be given as a foundation of a Publick Library at New York.

I. The Holy Scriptures.

An English Bible 4^to^
Biblia Sacra Septuagint. Cambridge.
Biblia Sacra Vulgat.
Novum Testamentum Vulgat. Parisijs. 1649.
Psalterium Græco. lat. cum. calendar, Hebr. Syr.
Græc. Lat. cum Genebrardi argumentis. Parisiis. 1605.
Novum Testamentum Hispanicum.
A Dutch Bible.
Cambridge Concordance.

II. Criticks and Commentators.

Leigh, Critica Sacra. Amst.
Io. Lightfote opera, 2 vol. folio. amst.
Willets Hexapla in Exodum.
———————— Leviticum.
———————— Danielem.
———————— Romanos.
Junius in Epistolam Iudæ.
Attersol on the book of Numbers.
Calvin's Sermons on Job
Mollerus in psalmos.
Capiodorus in psalmos.
Theophylactus in Novum Test.
J. Feri. Annot. in Evang. Johannis
Didari Steller Annot in Lucam.
D. Thomas. in Evang. Dominicalia
———————— in Epistolas
Feri Opuscula.
Davenant in Colossenses.
Del Rio in Threnos Hieremiæ.

III. Fathers and Schoolmen.

Augustini Opera Omnia 10 Tom. Basileæ per Frobenios fratres 1569.
Augustini opuscula plurima. 1 fol.
Hieronym. opera omnia studio Mariani Victorij Realin. Colon. Agrip. 1616.
Hieronymi: Epist. parisijs. 8°
Gregory Nysseni; Opera omnia, studio Frontonis Parisiis, apud Claud: Morellum. 1605.
Isidorus Pelusiota a Rittershusii ex officina Commeliniana. 1606.
Compendium D. Thome.
Magistre Sententiarum Liber.
D. Bernardi opera parisijs Jac. Merlon. Horst.
Opera Dyonysij Ardep: Martial, Polycarp, &c.
Dionysius Carthusianus de 4 novissimis.

IV. Discourses, Apologetical.

Minutij Fælicis. Octavius.
Vincentij Lyrinenses cum Costeis Annot.
Juelli Apologia Ecclesiæ. Angl:
Grotius de veritate Rel: Christianæ.
Hicks' answer to the book of the Rights &c.
Bp. Gaudens suspiria et Lacrymæ Eccl. Angl.

V. Ecclesiastical History, Chronology, Chorography.

Nicephori Callisti Hist et Tripartit. Paris.
Paulij Jovij hystoriarum sui temporis.
Rawleighs History of the World.
Cabassutii Summa Conciliorum.

VI. Body's of Divinity.

Baii. Instructiones religionis Christianæ.
I. Arndt. De vero Christianismo 2 vol. 8°
Hieronymi Zanchii. Opera. 2 vol.

Perkins Works
Pierson on the Creed.
Granatensis in Symbolum.
Thauleri opera
Nucleus Coppenstenii.
Musculi. Loci communes.
Pareus in Ursini Catech.
Hemingii. Loci communes.
Ellis in 39 Articulos, Eccl. Angl.
Osterwald's Catechism.
Bp. Kens' Exposition of the Church Catechism
Bp Beveridge Exposition
Hammonds practical Catechism

VII. Practical Divinity.

Bishop Andrews' Sermons. F.
Bp Sandersons Sermons. F.
Bp Brownrigs Sermons. F.
Bp Halls Works. F.
Adams's Works. F.
Rous's works F.
Funeral Sermons. F.
Pierces Sermons on obedience 4to
Hales remains 4to
Boys sermons 4to
Bp Jewels Sermons 8vo
Stapletoni promptuarium morale 8vo
Homiliarium Doctorum F. 1550.
Hylareti Homiliæ 8vo
Hyeronimi Savonærolæ de simplicitate.
———— Expositiones.
Bp Beveridge' of frequent prayer and Communion
Goodmans penitent pardoned
Life of God in the Soul of man.
Man become guilty ; by Senault.
Drexelij opera. 2 volumes. fol. Antwerp.
Featly's Clavis Mystica. F.
Discourse of Angels.

VIII. Controversial Tracts.

Leslys' five discourses
White against Fisher
Featly's Sacriledge of the Church of Rome.
Defence of Stillingfleets Unreasonableness of Separation.
Right of the Uniformity of Churches.
a Sancta Clara operum. Vol 2.
Answer to Dr Stillingfleet by O. S.
Nature of Faith, Heresy and Schism by N. N.
Cardinalis Christi Summa.
Medulla Theologica.
Bassire of Sacriledge.

IX. Philology, History, &c.

Iuvenalis et Persius Variorum.
Ovidii opera. Amst.
Terentij Comed., Elzevir.
Flori. Hist.
Iustini
Buchanani. Psalmor.
Buchani Chronicon.
Schryvelij Lexicon.
Pomponius Mela de situ orbis.
Ciceronis officia.
Polydori Virgilij proverb.
Erasmi de copia verborum.
Boetius de Consolatione.
Lipsii de Constantia
Cartesii philosophia
Seraphini Firmani opuscula.
Bentivolio and Urania.
Orosii Herodot. et Thucydides Hist.

Devotional.

Practice of Piety.
Whole duty of Man.

The Christians pattern 2 parts
Bellarmin's Steps, of the Ascension of the Soul
Parsons Christian Directory.
St. Aug. Confessions Englished.
Nelson on the feasts and fasts.
Polaris Methodus adjuvandi morientes.
Parsons Christian Directory
Stella de contemptu mundi.
Pascals thoughts.
Bonnels Life.
Church of England mans private Devotions.
Paradisus precum.
Arndts' Paradise of prayers, &c.

VI.

LETTER OF DOMINE MICHAELIUS.

AUGUST 11, 1628.

THE FIRST MINISTER

OF

THE REFORMED PROTESTANT

DUTCH CHURCH

IN

NORTH AMERICA.

LETTER OF DOMINE JONAS MICHAELIUS TO DOMINE ADRIANUS SMOUTIUS, DATED AT MANHATTAN, 11 AUGUST, 1628.

TRANSLATED FROM THE DUTCH, WITH A PREFACE AND NOTES

BY

HENRY C. MURPHY.

NOTE.

THE first permanent agricultural colonization of New-York—or, as it was then called, "New-Netherland"—took place in the year 1623, under the auspices of the Dutch West India Company. Most of the colonists who then came over were Walloons, who had fled from persecution in the Southern Netherland Provinces, and sought refuge in Amsterdam. Other settlers were from time to time sent out from Holland; and in the spring of the year 1626, Peter Minuit, formerly of Wesel, arrived, and was installed in his office as Director of the Province. The Island of Manhattan was immediately purchased from the savages, and it became the provincial Capital, and the port whence the furs obtained by the Company's traders at Fort Orange (now Albany) were exported to Amsterdam.

But, although they were chiefly traders and planters, the founders of New-York, in the very gray of the morning of their enterprise, took care to bring along with them the religion, as well as the maxims and the virtues of their fatherland. With Director Minuit came officers of the Established Church of the Netherlands—not, indeed, clergymen, but two "Krankbesoeckers," or *consolers of the sick*, whose particular ecclesiastical duty it was, in the absence of an ordained minister, to read to the people on Sundays "some texts out of the Scriptures, together with the creeds." These first officers of the Reformed Protestant Dutch

Church in North America in the year 1626, were Sebastian Jansen Krol (or Crol), and Jan Huyck.

It had been previously thought that there was no regularly ordained minister of the Dutch Church in New-Netherland before Domine Everardus Bogardus, who arrived at Manhattan with Director Van Twiller in 1633. A recent discovery in Holland, by Mr. J. J. Bodel Nijenhuis, however, authorizes us to correct this impression, and to begin our roll of Dutch missionary clergymen in 1628, with the name of JONAS MICHAELIUS.

Through the kindness of Mr. Henry C. Murphy, formerly American Minister Resident at the Hague, we are enabled to include in this volume a translation of a letter, written at "Manhatas, in New-Netherland," on the 11th of August, 1628, by Domine Jonas Michaelius, and addressed to Domine Adrianus Smoutius, at Amsterdam. Mr. Murphy prefaced his translation with the following remarks:

There has just appeared in the *Kerk-historisch Archief*, a work published periodically at Amsterdam, one of those interesting fragments which the researches of the curious into the history of the settlement of the United States are constantly bringing, for the first time, to light. It is a letter of Jonas Michaelius, who may now be called the first minister of the Dutch Reformed Church in the United States, written at Manhatas, in New-Netherland, on the 11th of August, 1628, and communicated to the work above mentioned, with such notices of the life of the writer as existing materials permit, by Mr. J. J. Bodel Nijenhuis; who deserves well of Americans, and especially of New-Yorkers, for the zeal which prompted him to rescue this waif from oblivion, and for the industry which he has exhibited in collecting as far as possible

the events in the life of the missionary. We are now carried back five years earlier in the history of the regular ministration of the gospel in New-York, and are enabled to add one more to the list of clergymen of the Dutch Reformed Church in America; one who, by his attainments and his holy zeal, as well as the high respect with which he was regarded by his learned brethren in Holland, is not unworthy to take his place at the head of the roll of that learned and pious body.

This letter is addressed to Dom. Adrianus Smoutius, minister of the Dutch Reformed Church at Amsterdam. It was found among the papers of the late Jacobus Koning, Clerk of the Fourth Judicial District of Amsterdam. Further than this, its history is unknown; but as Mr. Bodel Nijenhuis justly observes, it is undoubtedly to the importance of its contents that we are indebted for its preservation. Of the author, however, some few incidents interesting both as connected with his life and confirmatory of the claim now established in his behalf, have been discovered. They serve to excite our wonder that no intimation of his ministry and residence at New-Amsterdam has ever before been given. From the researches of Mr. Bodel Nijenhuis, we learn that Jonas Michaelius was born in the year 1577 in North Holland, and was educated contemporaneously with Jacob Cats and Ger. Joh. Vossius, at the celebrated University of Leyden, in which, as appears by its records, he was entered as a student of divinity on the 9th of September, 1600. He was settled as minister at Nieuwbokswoude, in North Holland, in 1612, and two years later at Hem, in the same neighborhood. In 1624 he was, on the conquest of St. Salvador from the Portuguese to the Dutch arms by Peter Heyn in that year, established as a minister there; but on the recovery of that place by the Portuguese in the following year, he left for Guinea and became the minister at the fort there, then recently taken from the Portuguese. He returned to Holland in 1627, and in January following, as his letter states,

embarked with his wife and three children for New-Netherland. He was then over fifty years of age. How long after writing his letter he remained in New-Netherland is not known. He appears, however, in 1637 and 1638 to have been again in Amsterdam, when he was requested by the Classis of Amsterdam to return as minister to New-Netherland. This he consented to do, and the Classis directed an application to be made to the West India Company to send him out. This was refused after some months' delay for reasons which do not appear. Whether his advanced age, or the additional expense which the Company would incur, or what other reason caused the rejection of the application is not known; the confidence which he had of the Classis of Amsterdam shows it must have been some special reason not affecting his standing as a minister. There is what appears to us an important fact in the register of these proceedings of the Classis of Amsterdam. Michaelius is there styled "late *minister* in Virginia" (*gewezen predikant in Virginia*), a circumstance not important, as Mr. Bodel Nijenhuis intimates, because it may thence be inferred that he emigrated from New-Netherland to Virginia, for there is no possible reason why he should go there as a "minister" where neither the Dutch nor the French language was spoken; but as confirming the authenticity of the letter itself, which otherwise stands wholly unsupported by other testimony. It shows that Michaelius had been in North America as a *minister*, and the fact that he is mentioned as of Virginia, proves nothing more, taken in connection with the letter, than that the Registrar who penned the minute had in his mind the idea, which prevailed at that time throughout Europe, and which assigned the general name of Virginia to all that portion of North America lying between Florida on the south and New France on the north, and embracing the Colonies of New-England, New-Netherland, and Maryland, as well as the particular Colony of Virginia.

There is, however, in the letter itself abundant intrinsic evidence of its authenticity. The nationality of the first adventurers, Walloons as well as Dutch; the place of the former residence in Europe of the Governor, Minuit; the war between the Mohawks and the Mohicans; are all stated incidentally in such a manner that, being at the same time consistent with the facts known from other sources, they leave no reasonable ground for doubt, even without the recognition of the ministry of Mr. Michaelius in New-Netherland by the note of registrar in the *Acta Classicalia* of its truth.

This letter, of which a faithful translation into English is now offered, possesses a peculiar interest independently of its importance in connection with the history of the Church. . . . . We read with interest the picture which the writer draws of the privations of the first settlers of New-Amsterdam, of their first cultivation of the land, of the productions of the country, and of the manners and language of the Indians, from all which the reader will derive the means of no unprofitable reflection.

THE HAGUE.
APRIL 1, 1858. HEN. C. MURPHY.

It may be added that, with perhaps a single exception, this letter of Domine Michaelius is the only document known to be extant "written during the first years of the settlement of New-York by any of the adventurers." The exception to which we refer is the very curious and interesting letter of Isaack de Rasieres to Samuel Blommaert, found in the Royal Library at the Hague, and published in the second volume of our second series of collections, pages 339–354. De Rasieres arrived at Manhattan in July, 1626, and became the Provincial Secretary under Director Minuit. The next year he was sent on an embassy to

New-Plymouth, of which place and its inhabitants he has given us a graphic description. He appears to have returned to Holland about the time that Domine Michaelius came out to New-Netherland.

It is not known how long Michaelius continued his ministry in the Church at Manhattan:—he seems, however, to have retired from that charge before the arrival of Domine Bogardus in 1633. The latter, being desirous to return to Holland in 1638, in order to defend himself before the Classis of Amsterdam, against certain charges made by the superseded Schout-Fiscal Van Dincklagen, applied to the Director and Council of New-Netherland for the necessary permission. This was refused; and the Consistory of the Church at Manhattan, supported by Director Kieft, earnestly upheld the side of Bogardus in letters to the Classis. While these proceedings were taking place, it appears that Michaelius, who was then in Holland again, was requested by the Classis of Amsterdam to return to his former charge at Manhattan, and that he consented to do so. The West India Company, however, upon being applied to, declined to send him out; and Bogardus remained the minister of the Church at Manhattan until he was succeeded by Domine Backerus in 1647.

The letter of Domine Michaelius which we have now the pleasure of presenting, besides its rare interest in connection with our civil History, may be considered as the beginning of the Records of the Mother Church of New-York. Although, as we have seen, religious services had been conducted since 1626, by lay officers of the Church of the Fatherland, the sacraments were not dispensed to the colonists until the arrival of their

first ordained minister in 1628, when "full fifty communicants" partook of "the first administration of the Lord's Supper." No doubt, Michaelius must, at that time, have commenced a regular church Record, which was continued by Bogardus and his successors. Unfortunately, however, it is not known to be now in existence. The earliest records now possessed by the Reformed Dutch Church of New-York begin in the year 1639, and these seem to have been collected and arranged from original materials by Domine Selyns, about the year 1686.

[TRANSLATION.]

DE VREDE CHRISTI.

HONORABLE SIR, WELL-BELOVED BROTHER IN CHRIST, KIND FRIEND!

THE favorable opportunity which now presents itself of writing to your Right Reverend Sir, I cannot let pass, without embracing it, according to my promise. And I first unburden myself in this communication of a sorrowful circumstance. It has pleased the Lord, seven weeks after we arrived in this country, to take from me my good partner, who has been to me for more than sixteen years, a virtuous, faithful, and in every respect amiable yoke-fellow; and I find myself with three children very much discommoded, without her society and assistance. But what have I to say? The Lord himself has done this, in which no one can oppose Him. Wherefore I should also be willing, knowing that all things must work together for good to those who love God. I hope therefore to bear my cross patiently, and by the grace and help of the Lord,

not to let the courage fail me which I stand in need of in my particular duties.

The voyage continued long, namely, from the 24th of January till the 7th of April, when we first set our foot upon this land. Of storm and tempest we have had no lack, particularly about the Bermudas and the rough coasts of this country, the which fell hard upon the good wife and children, but they bore it better as regards sea-sickness and fear, than I had expected. Our fare in the ship was very poor and scanty, so that my blessed wife and children, not eating with us in the cabin, on account of the little room in it, had a worse lot than the sailors themselves; and that by reason of a wicked cook who annoyed them in every way; but especially by reason of the captain himself, who, although I frequently complained of it in the most courteous manner, did not concern himself in the least about correcting the rascal: not did he, even when they were all sick, give them anything which could do them any good, although there was enough in the ship; though he himself knew very well where to find it in order, out of meal-times, to fill his own belly. All the relief which he gave us, consisted merely in liberal promises, with a drunken head, which promises nothing followed when he was sober, but a sour face; and thus has he played the brute against the officers and kept himself constantly to the wine, both at sea and especially here in the (North) river; so that he has navigated the ship daily with a wet sail and an empty head, coming ashore seldom to the Council and never to the public Divine service. We bore all with silence on board the ship; but it grieves me, when I think of it, on account of my wife; the more, because she was placed as she was—not knowing whether she was pregnant, and because the time was so short which she had yet to live. In my first voyage (*) I traveled much with him, yea, lodged in the same hut, but never knew that he was such a brute and drunkard. But he was then

(*) To Brazil.

under the direction of Mr. Lam, and now he had the principal direction himself. I have also written to Mr. Godyn about it, considering it necessary that it should be known.

Our coming here was agreeable to all, and I hope, by the grace of the Lord, that my services will not be unfruitful. The people, for the most part, are all free, somewhat rough, and loose, but I find in most all of them both love and respect towards me; two things with which hitherto the Lord has everywhere graciously blessed my labors, and which will produce us fruit in our special calling, as your Right Reverend yourself well knows and finds.

We have first established the form of a church (gemeente), and, as brother Bastiaen Crol (*) very seldom comes down from Fort Orange, because the directorship of that fort and the trade there is committed to him, it has been thought best to choose two elders for my assistance and for the proper consideration of all such ecclesiastical matters as might occur, intending the coming year, if the Lord permit, to let one of them retire, and to choose another in his place from a double number first lawfully presented by the congregation. One of those whom we have now chosen is the Honorable Director himself, and the other is the storekeeper of the Company, Jan Huyghen, his brother-in-law, persons of very good character, as far as I have been able to learn; having both been formerly in office in the Church, the one as deacon, and the other as elder in the Dutch and French Churches, respectively, at Wesel. (†)

We have had at the first administration of the Lord's Supper full fifty communicants—not without great joy and comfort for so many—Walloons and Dutch; of

(*) He had formerly (in 1626) been one of the "Krank-besoeckers," or *consolers of the sick*, at Manhattan, whence he was sent to Fort Orange as Vice-Director.

(†) Peter Minuit was the Director: Jan Huyghen, his brother-in-law, was probably the "Jan Huyck," who was the colleague of Crol as Krank-besoecker at Manhattan, in 1626.

whom, a portion made their first confession of the faith before us, and others exhibited their church certificates. Others had forgotten to bring their certificates with them, not thinking that a Church would be formed and established here; and some, who brought them, had lost them unfortunately in a general conflagration, but they were admitted upon the satisfactory testimony of others to whom they were known, and also upon their daily good deportment, since we cannot observe strictly all the usual formalities in making a beginning under such circumstances.

We administer the Holy Sacrament of the Lord once in four months, provisionally, until a larger number of people shall otherwise require. The Walloons and French have no service on Sundays, otherwise than in the Dutch language, of which they understand very little. A portion of the Walloons are going back to the fatherland, either because their years here are expired, or else because some are not very serviceable to the Company. Some of them live far away and could not come on account of the heavy rains and storms, so that it was neither advisable nor was it possible to appoint any special service for so small a number with so much uncertainty. Nevertheless, the Lord's Supper was administered to them in the French language, and according to the French mode, with a preceding discourse, which I had before me in writing, as I could not trust myself extemporaneously. If, in this and in other matters, your Right Reverend, and the Reverend Brothers of the Consistories, who have special superintendence over us here, deem (*) it necessary to bestow upon us any correction, instruction, or good advice, it will be agreeable to us, and we will thank your Right Reverend therefor; since we must have no other object than the glory of God in the building up of his kingdom, and the salvation of many souls. I keep myself as far as practicable within the pale of my calling, wherein I find myself sufficiently

(*) Named at the end of the letter.

occupied. And, although our small Consistory embraces at the most—when Brother Crol is down here—not more than four persons, all of whom, myself alone excepted, have also public business to attend to, I still hope to separate carefully the ecclesiastical from the civil matters which occur, so that each one will be occupied with his own subject. And, though many things are *mixti generis*, and political and ecclesiastical persons can greatly assist each other, nevertheless, the matters and offices tending together must not be mixed but kept separate, in order to prevent all confusion and disorder. As the council of this place consists of good people, who are, however, for the most part simple, and have little experience in public affairs, I would have little objection to serve them in any serious or dubious affair with good advice, provided I considered myself capable, and my advice should be asked; in which case I suppose that I would not do amiss, or be suspected by any one of being a *πολυπράγμων* or *ἀλλοτριοεπίσκοπος*.

In my opinion it is very expedient that the Lords Managers of this place should furnish plain and precise instructions to their Governors that they may distinctly know how to regulate themselves in all difficult occurrences and events in public matters; and at the same time that I should have all such Acta Synodalia, as are adopted in the Synods of Holland, both the special ones relating to this region, and those which are provincial and national, in relation to ecclesiastical points of difficulty, or at least such of them as, in the judgment of the Reverend Brothers at Amsterdam, would be most likely to present themselves to us here. In the mean time, I hope matters will go well here, if only on both sides we do the best in all sincerity and honest zeal; whereto I have from the first entirely devoted myself, and wherein I have also hitherto, by the grace of God, had no just cause to complain of any one. And if any dubious matters of importance happen to me, and especially if they will admit of any delay,

I will apply to the Reverend Brothers for good and prudent advice, to which I have already wholly commended myself.

As to the natives of this country, I find them entirely savage and wild, strangers to all decency, yea, uncivil and stupid as posts, proficient in all wickedness and godlessness; devilish men, who serve nobody but the devil, that is, the spirit, which, in their language, they call *manetto*; under which title they comprehend everything that is subtle and crafty and beyond human skill and power. They have so much witchcraft, divination, sorcery and wicked tricks that they cannot be held in by any bands or locks. They are as thievish and treacherous as they are tall; and in cruelty they are more inhuman that the people of Barbary, and far exceed the Africans. I have written concerning these things to several persons elsewhere, not doubting that brother Crol will have written sufficient to your Right Reverend, or to the Lords Managers thereof; as also of the base treachery, and the murders which the Mohicans, at the upper part of this river, against Fort Orange, had committed; but their misfortune is, by the gracious interposition of the Lord, for our good, who, when it pleases him, knows how to pour unexpectedly natural impulses into these unnatural men, in order to hinder their designs. How these people can best be led to the true knowledge of God and of the Mediator Christ, is hard to say. I cannot myself wonder enough who it is who has imposed so much upon your Right Reverend and many others in the Fatherland, concerning the docility of these people and their good nature, the proper *principia religionis* and *vestigia legis naturæ* which should be among them; in whom I have as yet been able to discover hardly a single good point, except that they do not speak so jeeringly and so scoffingly of the godlike and glorious majesty of their Creator, as the Africans dare to do. But it is because they have no certain knowledge of him, or scarcely any. If we speak to them of God, it

appears to them like a dream; and we are compelled to speak of Him, not under the name of Menotto, whom they know and serve—for that would be blasphemy—but under that of some great persons, yea, of the Chiefs Sackiema; by which name they—living without a king—call those who have the command over any hundreds among them, and who by our people are called Sackemakers, the which their people hearing, some will begin to mutter and shake their heads as of a silly fable, and others, in order to express regard and friendship to such a proposition, will say *orith*, that is, *good*. Now, by what means are we to make an inroad or practicable breach for the salvation of this people? I take the liberty on this point of enlarging somewhat to your Right Reverend.

Their language, which is first thing to be employed with them, methinks is entirely peculiar. Many of our common people call it an easy language, which is soon learned, but I am of a contrary opinion. For those who can understand their words to some extent and repeat them, fail greatly in the pronunciation, and speak a broken language, like the language of Ashdod. For these people have difficult aspirates and many guttural letters, which are formed more in the throat than by the mouth, teeth, and lips, which our people not being accustomed to, guess at by means of their signs, and then imagine that they have accomplished something wonderful. It is true, one can learn as much as is sufficient for the purposes of trading, but this occurs almost as much by signs with the thumb and fingers as by speaking, which could not be done in religious matters. It also seems to us that they rather design to conceal their language from us than to properly communicate it, except in things which happen in daily trade; saying that it is sufficient for us to understand them in those; and then they speak only half their reasons, with shortened words; and frequently call a dozen things and even more by one name; and all things which have only a rude resem-

blance to each other they frequently call by the same name. In truth it is a made up childish language; so that even those who can best of all speak with the Indians, and get along well in trade, are nevertheless wholly in the dark and bewildered, when they hear the Indians speaking with each other by themselves.

Let us then leave the parents in their condition, and begin with the children who are still young. So it should be. But they must be separated in youth from their parents; yea, from their whole nation. For, without this, they would be as much given as their parents to heathenish tricks and deviltries, which are kneaded naturally in their hearts by themselves through a just judgment of God; so that having once obtained deep root, by habit, they can with difficulty be wholly eradicated therefrom. But this separation is hard to effect; for the parents have a strong affection for their children, and are very loth to part with them; and, when they are separated from them, as we have already had proof, the parents are never contented, but take them away stealthily, or induce them to run away themselves. Nevertheless, we must, although it would be attended with some expense, obtain the children through a sense of gratitude on the part of their parents, and with their consent, by means of presents and promises; in order to place them under the instruction of some experienced and godly schoolmaster, where they may be instructed not only to speak, read, and write in our language, but also especially in the fundamentals of our Christian religion, and where, besides, they will see nothing but good examples and virtuous lives; but they must speak their native tongue sometimes among themselves in order not to forget it, as being evidently a principal means of spreading the knowledge of religion through the whole nation. In the mean time it must not be forgotten to pray to the Lord, with ardent and continual prayers, for his blessing, who can make things which are unseen to be quickly and con-

veniently seen, who gives life to the dead, calls as nothing that which is, and being rich in mercy has pity on whom he will: as He has compassionated our people to be his people, when we before were not pitied, and were not his people; and has washed us clean, sanctified us and justified us, when we were covered all over with all manner of corruption, calling us to the blessed knowledge of his Son, and from the power of darkness to his marvelous light. And this I regard so much the more necessary as the wrath and malediction of God, which have been found to rest upon this miserable people hitherto, are the more severe. May God have mercy upon them finally, that the fulness of the heathen may be gradually accomplished, and the salvation of our God may be here also seen among these wild and savage men. I hope to keep a watchful eye over these people, and to learn as much of their language as will be practicable, and to seek better opportunities for their instruction than hitherto it has been possible to find.

As to what concerns myself and my household: I find myself by the loss of my good and helping partner very much hindered and distressed—for my two little daughters are yet small; maid servants are not here to be had, at least none whom they advise me to take; and the Angola slaves are thievish, lazy, and useless trash. The young man whom I took with me, I discharged after Whitsuntide, for the reason that I could not employ him out of doors at any working of the land, and in doors he was a burden to me instead of an assistance. He is now elsewhere at service with the boers.

The promises which the Lords Masters of the Company had made me of some acres or surveyed lands for me to make myself a home, instead of a free table which otherwise belonged to me, is wholly of no avail. For their Honors well know that there are no horses, cows, or laborers to be obtained here for money. Every one is short in these particulars and wants

more. The expense would not trouble me, if an opportunity only offered; as it would be for our own accommodation, although there were no profit from it (save that the Honorable Managers owe me as much as the value of a free table); for there is here no refreshment of butter, milk, etc., to be obtained, although a very high price be offered for them; for the people who bring them and bespeak them are suspicious of each other. So I will be compelled to pass through the winter without butter and other necessaries, which the ships did not bring with them to be sold here. The rations, which are given out and charged for high enough, are all hard stale food, as they are used to on board ship, and frequently this is not very good, and there cannot be obtained as much of it as may be desired. I began to get some strength through the grace of the Lord, but in consequence of this hard fare of beans and gray peas, which are hard enough, barley, stockfish, etc., without much change, I cannot become well as I otherwise would. The summer yields something, but what of that for any one who has no strength? The Indians also bring some things, but one who has no wares, such as knives, beads, and the like or seewan, cannot have any good of them. Though the people trade such things for proper wares, I know not whether it is permitted by the laws of the Company. I have now ordered from Holland most all necessaries; but expect to pass through the winter with hard and scanty food.

The country yields many good things for the support of life, but they are all to be gathered in an uncultivated and wild state. It is necessary that there should be better regulations established, and people who have the knowledge and the implements for gathering things in their season, should collect them together, as undoubtedly will gradually be the case. In the meanwhile, I wish the Lords Managers to be courteously inquired of, how I can have the opportunity to possess a portion of land, and at my own expense to support

myself upon it? For as long as there is no more accommodation to be obtained here from the country people, I would be compelled to order everything from the fatherland at great expense, and with much risk and trouble, or else live here upon these poor and hard rations alone, which would badly suit me and my children. We want ten or twelve farmers with horses, cows and laborers in proportion, to furnish us with bread and fresh butter, milk, and cheese. There are convenient places which can be easily protected, and very suitable; which can be bought from the Indians for trifling toys, or could be occupied without risk; because we have more than enough shares which have never been cleared but have been always reserved for that purpose. The business of furs is dull on account of a new war of the *Maechibaeys* (Mohawks) against the Mahicans at the upper end of this river. There have occurred cruel murders on both sides. The Mohicans have fled, and their lands are unoccupied, and are very fertile and pleasant. It grieves us that there are no people, and that there is no regulation of the Lords Managers to occupy the same. They fell much wood here to carry to the fatherland, but the vessels are too few to take much of it. They are making a windwill to saw the wood, and we also have a grist-mill. They bake brick here, but it is very poor. There is good material for burning lime, namely, oystershells, in large quantities. The burning of potash has not succeeded; the master and his laborers are all greatly disappointed. We are busy now in building a fort of good quarry stone, which is to be found not far from here in abundance. May the Lord only build and watch over our walls. There is a good means for making salt; for there are convenient places, the water is salt enough, and there is no want of heat in summer. Besides, as to the waters, both of the sea and rivers, they yield all kinds of fish; and as to the land, it abounds in all kinds of game, wild and in the groves, with vegetables, fruits, roots, herbs, and plants,

both for eating and medicinal purposes, working wonderful cures, which are too long to relate, and which, were it ever so pertinent, I could not tell. Your Right Reverend has already obtained some knowledge thereof in part, and will be able to obtain from others further information. The country is good and pleasant; the climate is healthy, notwithstanding the sudden changes of cold and heat. The sun is very warm; the winter is strong and severe, and continues full as long as in our country. The best remedy is not to spare the wood—of which there is enough—and to cover oneself well with rough skins which can also easily be obtained.

The harvest, God be praised, is in the barns, and is better gathered than ever before. The ground is fertile enough to reward labor, but they must clean it well, and manure and cultivate it the same as our lands require. It has hitherto happened much worse, because many of the people are not very laborious, or could not obtain their proper necessaries for want of bread. But it now begins to go on better, and it would be entirely different now if the Masters would only send good laborers, and make regulations of all matters, in order, with what the land itself produces, to do for the best.

I had promised (to write) to the Honorable Brothers, Rudolphus Petri, Joannes Sylvius, and Dom. Cloppenburg, who with your Honor were charged with the superintendence of these regions (*); but as this would take long, and the time is short, and my occupations at the present time many, will your Right Reverend be pleased to give my friendly and kind regards to their Reverends, and to excuse me, on condition that I remain their debtor to fulfill my promise—God willing—by the next voyage. Will you, also, give my sincere respects to the Reverend Dom. Triglandius,

(*) Mr. Bodel Nijenhuis states that it was so committed to some of the ministers of Amsterdam by the Synod of North Holland; and the ministers above mentioned were all at that time active ministers at Amsterdam, where Sylvius and Triglandius had been since 1610, Petri since 1612, and Cloppenburg since 1621.

and to all the brothers of the Consistory besides, to all of whom I have not thought it necessary to write particularly at this time, as they are made by me participants in these tidings, and are content to be fed from the hand of your Right Reverend. If it shall be convenient for your Honor, or any of the Reverend Brothers to write hither to me a letter concerning matters which might be important in any degree to me, it would be very interesting to me, living here in a savage land without any society of our order, and would be a spur to write more assiduously to the Reverend Brothers concerning what might happen here. And especially do not forget my hearty salutation to the beloved wife and brother-in-law of your Right Reverend, who have shown me nothing but friendship and kindness above my deserts. If there is anything in which I can in return serve or gratify your Right Reverend, I will be glad to do so, and will not be behind hand in anything. Concluding then herewith, and commending myself in your Right Reverend's favorable and holy prayers to the Lord.

Honored and learned Sir, Beloved Brother in Christ, and Kind Friend;

Commending your Right Reverend and all of you to Almighty God, by his Grace, to continued health and prosperity, and to eternal salvation of heart.

From the island of Manhatas in New-Netherland, this 11th August, Anno 1628, by me your Right Reverend's obedient in Christ,

JONAS MICHAELIUS.

(*Endorsed.*) The honorable, learned, and pious Mr. Adrian Smoutius, faithful minister of the holy gospel of Christ in his Church, dwelling upon the Heerengracht, not far from the house of the West India Company, Amsterdam. By the care of a friend whom God preserve.

(*Sealed* with a wafered signet not discernible.)

VII.

COURT OF LIEUTENANCY

1686—1696.

COURT OF LIEUTENANCY

BEGUN OCTOBER 16TH. 1686. ENDING 1696.

Att a Court of Lievtennancye held for the Citty and County of New York the 23^{d} of october 1686.

Present.

Coll^{o} Nicholas Bayard
Maj^{r} Nich. de Meyer
Capt^{t} Jacob Leislaer
Capt^{n} de peyster
Capt^{n} Lodowick
Capt^{n} Stuyvesant.

Liev^{ts}	Ensignes.
Gyles Godineau,	Barr^{t} Lewis.
direck v Clyffe	Isaac d'Romer
Hans Kierstede	Ioh'es. d'peyster
W^{m} Bogardus	Arent Cornelison
Isaac V Vleck	
dan^{l} Turneir	

The absents.

Lievt. W^{m} Merrett	Major McGrigore
Cor^{t} Iacobus Cortland	Captain Santen
Quarterm^{r} Iohn Tuder	Captain Minivelle
Ensigne Bonmerre	Captain pinhorne
Ensigne Bayard.	

In pursuance of the ord^{r} about defalters. Cap^{t} Minivelle not haveing performed the said Ord^{r} hee Is ordered to performe the Same punctually before the 20th of Nov^{r} next on penalty of payeing 20^{s} onely Instead of makeing a Returne to this Court hee Is to make the same to the Coll^{o} or in his absence to the Major who are hereby Iointly or severally Empowred to punish the offenders as they shall think ffitt.

Capt Leislaer Returnes for defalters.

Caspaer Hoet	Philip Richards	Iohn Southward
Tho. philips	George Masters	George Logan

And the marshall declares that he hath Sumoned the afores.d Persons to attend this Court this day In ordr to answer their said defaults who being severally called did not appeare. Its therefore Ordered that a warrt bee Issued forth directed to the Marshall Empowreing him to Levy by distresse of the Goods of the severall offenders the severall fines of tenn shills for Each default together with the Costs of this Court In Case of Refusall of Immediate paymt by such defaulter.

Capt d'Peyster Returns for defaulters
Jacob Tellenor : Anthony Loff.

The marshall declares the same as above.
The Same Order as above.
Capt Pinhorne not haveing performed the same ordr The same ordered as in the Case of Capt Minivelle.

Capt Lodowick Returnes defalter Peter Ludgar.

The same ordr as before In d'Peysters defaults.

Captain Stuyvesant. ——— No defaults.

Ordered that Lievt Merret & Ensigne Bomeere pay their defaults of not attending the Court as In the Last Session— The Rest being Excused.
Upon the Request of the Marshall for something of satisfaction to bee ascerteyned by this Court to bee paid to him for his trouble In attending and Executing the Comands of this Court & of the severall Captains & other officers of the Lievtennancy from time to time. Ordered that the Collo or Majr shall out of such fines as shall bee Received for defaults or otherwise pay

and allow to the said Marshall so much from time to time as to them In their discretion shall seem Reasonable & Convenient.
For the Clerks satisfaction the like ordr as above.
Ordered that the Marshall pay In all such fines as hee shall from time to time Receive forthwith to the Collo or Majr

Att a Court of Lievtennancy held for the Citty and County of New Yorke the 30th of October 1686.

Present
Nicho Bayard Collonell
Capt Lucas Santen
Capt Minivellé
Capt d'Peyster
Capt Lodowick
Capt Stuyvesant
Major Mcgregore.

Lievt Merrett
Lievt Godineau
Lievt v Clvffe
Lievt Keirstead
Lievt Bogardus
Lievt V Vleck

Cornett Cortland
Ensigne d'Peyster
Ensigne Bayard

Absents are majr d'meyer, Capt pinhorne, Capt Leislaer, Ensigne Bonmere Lewis d'Remer & Cornelison.
All Excused Because not personnally Served.
Ordered that the Clerk assisted by a Serjeant of Each Company forthwith Collect the Muster masters fees appointed By act of Assembly for these two yeares past and that on default of Immediat payment they distreyne on the Goods and Chattells of such Refusers so much as shall Satisfye the same & charges by virtue of a warrant under the hand of such Captain to whose Company such person so refuseing shall Belong.
For which the Clerk Is to Receave 10 p cts & that

a Returne Of this bee Made Within Eight dayes to Each Capt.

Ordered that on Munday next the Lawes about provideing Armes & ammunition bee published throughout the streets By the Clerk attended by a Serjeant of Each Company with beat of Drumm.

The ffees allowed for Every warrant of distress Is three shillings.

Citty and County of New York. Court of Lievtenancy Held wedensday ye 21 off Sept. 1687.

Present.

Coll.ll Nicolas Bayard
Major Nicolas Demeyer

Captns.

Gabriel Minveile
Iacobus Leisler
Iohannes debrayn
Abraham Depyster
Nicolas Stervesant

Leivetnts

Isaack Van vleig
Giles Gaudineaw
Dirik vand. clyff
Hans Kiersteed
Leiv.t of horse William Merit
Cornet Jacobus Cūrtland
QuarterM.r John Tewdar

Ensings

Daniel Tūrner
Samuel Bayard
Arien Cornelisson
Isaak DeRymer

Captain Minvel Captain Debrūyn and Cap.t Leislor being called did not appear nor any on theire behalfe. Cur. fine them Six shillings Each.

Liev^{t} Van vleck returns David Provoost and Nich^{o} Auger Defaulters the last muster.
Cap^{t} Stuyvesant returnes Edward Burling defaulter utt supra.

The Generall's order to the Coll^{ll} to Draw out of every Company and troop under his Command every tenth man thereof to be sent up to Albany and Schenectida read.

Tuesday ye. 27th. Septembr. 1687 Then a coppy hereof was exhibited to his Excelly ye. Govr. p. Councill & by them Approved and confirmed.

Resolved that every Man who stayes shall contribute and pay one peice of eight for their tenth Man who goes up, and if Any of them be Poore & Vnable to pay A piece of eight it shall bee Left to the Captains in whose Companyes such psons are to Reduce it as the Respective Captaines Shall see fitt, And that the money be Collected out of each Company by the Serjant thereof, by the first Day of March next, and by the severall Serjants to be paid to there Respective Captaines as it Shall be Collected who are to Allow their said Serjants what they Shall see Reasonable for Collecting itt.

Resolved that every Man Appointed to goe A foot Soldier to Albany in case he himselfe cannot goe in Person shall Provide a sufficient Man in his Place such as his Captaine shall Approve off, or pay a fine of tenn Pounds to be Disposed of as this Court Shall appoint and Every Trooper soe appointed and refuseing to goe or send a Man & horse as Aforesaid Shall pay twenty Pounds to be Disposed of as aforesaid.

Resolved by Consent that Quartermaster Tuder on behalfe of all the Captaines cast lotts, and the Captaine on whom the lowest or smallest lott shall fall, shall goe up to Albany, and every of the other Captaines shall Pay him whoe Goes, Six pounds before his Departure,
And Captaine Lodwyk being Absent in case the Lowest lott fall on him that it be Referred to the Governour to Commissionate one in his stead The

Lotts being Cast Accordingly the lowest lott Was two & fell Vpon Captaine Minuille.

Resolved that the Defaulters this Day returned be Sumoned before there Respective Captaines and the Major who are hereby Impowered to fine or Acquit them as they shall See fitt.

Ordered that the Clerke of this Court search for the late orders from the Governour that are not Entred and that he enter them.

Resolved by Consent of all the Leivts (except Bogardus who is Absent & Excused by the rest) that like lotts be Cast for them as for the Captains, and that each pay him that goes forty shillings.

The Lotts being Cast fouer was the Lowest & fell on Leivt Hanse Kiersteed.

The Lotts being likewise Cast for the Ensignes the two lowest being fouer fell on Barent Lewis & Isaack DeReymer, and cast againe between them Seven being the lowest fell on Barent Lewis.

Citty & County of New Yorke Court of Leivetanancy held Wednesday the 26th September 1687.

Present.

Coll. Bayard	Leivt V. Vleck	
Major DeMeyer	Leivt V. Cliffe	John Tuder
Capt Depeister	Leivt Keirsteed	quartermaster
Capt Minvielle	Ensigne Lewis	
Capt Stuyvesant	Ensigne D'Rimer	
Capt Debruyne	Ensign Bayard	Jacobus Cortlandt
Leivt Merritt	Ensigne Cornelison	Cornett.
Leivt Gourdineau		

The Resolves lately Confirmed by the Governour and Councill returned; Proposed & Resolved that every off the Men now Appointed to goe to Albany have a Warrant from their Respective Captains Imeaditly to receive the nine Peices of eight the last Court Day ordered to be paid to them and Such as

refuse to pay it Accordingly being Returned to the Captaine he Shall Give A warr^tt to the Marshall Assisted with A Serjant of the Company to Destreine Imeadiatly for itt; Francis Richardson returned as a Defaulter in the Troope the last Muster Appeared upon A Sumons Cur. fines him twenty Shillings; Peter Bogart Defaulter last muster, of the troope Appears and alleadges his father took his furniture from him which hindred him; Ordered it be Referred to the Major and the Leivtenant & he whose fault it Appeares to be Shall pay the fine of twenty shillings and that his furniture be Restored to him.

Albartus Brant returned to go up to Albany A foott Man Appeared and Refuses to go or send A Man in his place.

Cur. fine him tenn pounds.

Commicon to M^r. John Tuder to be Captaine of the Men now Drawne out to goe to Albany read.

Resolved that by these Comicon the Officers & soldiers now ordered to goe up from this Citty are to obey the said Captaine Tuder as their Captaine.

Citty & County of New Yorke Court of Leivetanancy Tuesday Octob^r the 11^th. 1687.

Present

Coll Bayard	Leiv^t. Keirsteed
Cap^t. Depeister	Ensigne Bonimer
Leiv^t. V. Clyffe	Ensigne Bayard
Leiv^t. V. Vlecke	Ensigne DeReimer.

Defaulters Cap^t. Minviel & Leiv^t. Bogardus Cur. fine them six shillings each.

Ordered that Cap^t. Minville pay twenty shill^s. fine unlesse he shew good reason to the Coll^ll. and Major for his Absence from the last meeting w^ch. the Major Appointed by order of the Coll^ll.

Ordered that all the Capt^s. meet to morrow att five

A clock in the after noone to compleat their Lists of their Generall Companyes
Whereas many of the Inhabitants of the citty & county are gon to Albany Soe that but A small appearance can bee made in the fields, Itt is ordered that the Generall training bee Deferred untill further Order.

Att A Court of Lievtenancy ffriday the 1st of June 1688: Being Present, viz

Collo Bayard	Maior Demire
Capt Leislar	Capt Munvill
Capt Depister	Capt D. Browne
Lievtt Kiersten	Levtt Van Clyffe
Lievtt Vanfflecq	

Ensigne Deremere
Ensigne Dupeister
Ensigne Bayard

ORDERS TO BEE OBSERVED BY THE MILITARY WATCH APPOINTED FOR THE CITTY OF N: YORKE

Imprimis. That the Watch bee Sett Every Night by nine of ye clock imeadiately after the ringing and continew till the ringing of the Bell in the Morning.

2dly That the Respective Captaines of this Citty and their Severall Commission Officers shall By Equall Turnes haue the Sole Command of the said Watch and giue theire personall Attendance all night under the penalty of Tenn Shillings.

3dly That the Provest Marshall Shall every day be fore noone, give due notice to the Commission Officers, or to the place of his or their Aboade, whose turne it shall bee to command the Watch yt following night; on the peanalty of Twenty Shills and the Loss of his place.

4ly That the said Commission Officer by his Sergt or Corporall, do give or Leave Notice att the house

or usuall Dwelling Places of the Severall Souldiers whose turne it is To watch, and vppon Such notice given the said Souldiers are personally to make theire apperance, with Armes and amonition as the Law directs in the Citty Hall; every night about nine of the Clock at the ringing of the Bell, under the Penalty of three Shillings, and if any one coms to ye watch after the Roll is called over, he shall pay halfe the fine a fore said being one shilling and six pence but after y^e^ expiration of an hour not to bee admitted.

5.^ly^ That the provest Marshall shall give his attendance att the Setting of the Watch—and att the Command off y^e^ Officer of the Watch about halfe an hour after Ringing of the Bell, by his role call ouer the names of those who are to give there attendance theire that night.

6.^ly^ That noe Souldier shall go from or absent himselfe from the Watch without consent of his officer vnd^r^ y^e^ penalty of five shillings.

7.^ly^ That Whosoe ever shall come vppon the Watch over charged in drinke hee or they shall pay a fine of Three shillings.

8.^ly^ That whosoe ever shall presume to make any quarrell vppon the watch, vppon acco^t^ of being of Different nations or any other pretence what soe ever, hee or they shall pay a fine of Six-shillings and bee lyable to such further Sensure as the meritt of the Cause shall require.

9.^ly^ That noe Centinall presume to come of his duty untill hee bee relieued, under a Severe Sensure, which is to bee att least tenn Shillings for a fine & three dayes imprisonment, and the officer of the watch is to take care that the Duty of the Centenalls bee equally proportioned and not to Exceede an hour att a time.

10.^ly^ That ffrequent arounds bee made about the Citty and Especially towards the Watter side and not less then three tymes a night.

11ly That noe Cursing or Swearing bee Suffered vppon the watch under the penalty as the law directs nor vnlawfull gaming or excessive drinking vnder the pennalty of two shillings for every such offence.

12ly If any disorders are Committed vppon ye watch Contrary to the tennor of this order the Officer of the watch shall give an Acco[t] thereof the following morning to ye Collnell or by his absence to ye Mayor of the Regiment to ye End the offender bee punished as the matter shall requier.

13ly That in goeing the Rounds the watch bee Still and quiett and not suffer any noise or loud talking in the Streets by any of them und[r] the penallty of two Shillings.

14ly That a List of the fines Signed by the Officer of the watch bee Brought by the provoost Marshall to the Collnel or by his absence to the Mayor of the Rigement Every morning after which power shall be granted to Levy the fines and further Charged by distress if not other wise Satisfyed.

Att a Court of Leiuetenancy held for the Citty and County of New Yorke the 16° day of August 1688.

It is ordered by his Excellency Sir Edmund Andros that the Vndermenconed psons be appointed Commission officers for the Citty and County aforesaid, and their Comisions was Deliuered accordingly.

Nicholas Bayard, Esq[re]
Majo[r] Nicholas De meyer
Cap[ta] Gabrill Miniveille
Lew[t] John Haynes
Ensigne Bonamaires
Cap[tn] Jacob Leislar
Lew[t] Hans Kierstren
Ensigne Issaace De Riemer
Capt[n] Abraham De peyster
Capt[a] Charles Lodgwicke

Leui[t] Issaace Van Vleep
Hendrick Kuyler
Johannes D Peyster Ensigne
Ensigne Samuell Bayard
Cap[ta] John De Bruyn
[Lieut.] Tho[s] Crundall
Ensigne Peter Van Burng
Cap[ta] Nicholas Stuyvesant
Leiu[t] Daniell Terner

Ensigne arr [ent] Cornellison ffined 6[s] for his absence if he shows noe Reason to the Contrary.

Citty of New Yorke Att a Court of Lewtenancy Holden at the Citty Hall within the Citty on the 25[o] of august 1688—being Saturday.

Ordered that the Cap[tas] perfect their Lists by Wednesday next and that they for forfeit twenty Shillings in Case of Default at said time. James Bonamere, if he gives noe Lawfull excuse by next Court to pay his fine. Jeremiah Johnson fined twelve Shillings, for his Contempt, in Drawing his Sword against his officer.

Citty of New Yorke At a Court of Leuietenancy—holden at the Citty hall within the said Citty on Wednesday the 29[o] august 1688.

Court orders Judgm[t] against the Vndernamed persons being returned by Cap[ta] Gabrill Miniveille, to pay theire fine as the Law Directs, being 20/ each,—

John Kingdom
Abraham Matthyse
Edward Taylor

Court orders Judgm[t] against the Vndernamed persons being returned by Cap[ta] Lodgwick to pay theire fines as the Law Directs being 20/ each

Theophilous Turford
Thomas Henesom
William Botler

Court passeth Judgm^t as a fore against the Vndernamed persons returned p Cap^ta Johannus D. Browne.

Richard Van Dam
Thomas Alwlee
ponsell Stillee

Court orders Judgm^t as Aforesaid against the vnd^r named persons returned p Cap^ta Nicolas Stiuijvesant,

Edward Borlin
John Perry

The said party is alsoe to pay for theire Defaults on the 14^o of November Last—

Citty of New Yorke Att a Court of Lievtenancy Holden att the Citty Hall within Said Citty on Wednesday the 31^st 7^ber 1688.

Lievten^tt Henry Kuyler being absent It is ordered he pay his ffine 6^s unless he gives reason Sufficient for his absence next Sitting.

Albertus Brandt Ordered p the Court to pay his ffine being 10^s for his absence last trayneing day.

Wolleffert Webber ffined by this Court for his Misbehaviour to his Cap^tt & refuseing his Comands last Trayneing day Two pounds tenn Shillings & to be dismissed from his Serjeants place

Citty of New Yorke Att a Court of Lievtenancy Holden att the Citty Hall within Said Citty on the 7^th day of October 1688.

Cap^tt Leisner Cap^tt Stüvesant & Lievten^tt Haines being absent are all to pay their ffines vnless sufficient Cause to the Contrary next Court day.

Vpon the peticon of Wolleffert Webber his ffine last Court day remitted him he paying only Costs to Say twelve Shillings.

Citty of N York Att a Court of Lieutenancy held for the Citty & County of New York att the Citty hall the 28th. day of March anº 1691.

Present

Coll Nichles Bayard	Lt William Teller
Majr Gabriell Momvele	Lt Jeremia Tottill
Capt William Merrit,	Lt Rip Van Dam
Capt Teunis De Key	Ensigne Joh. V. Cortland
Cap. Ebenesor Wilson	Ens Jacobus D Keij
Capt Cristopher Gore	

The severall Comissions from his Excellency the Capt generall, where this Delivered to the undernamed Capt and theire Infirior Comission oficers and ordered to Take thare Stations as foloweth.

Capt Merrit to be the firs Compan
Capt Brant Schüyler the second.
Capt Teunis De Key the Third
Capt Ebenesor wilson the fourth
Capt Cristopher gore the fifth
Capt John Merrit the Sixth.

Ordered that Every Commission officer upon due warning given shall apier at the Court of Lievtenancy within halfe an hour after Ringing of the Bell, under the Penalty of Paying Three Shillings, unlesse hindered By Sickness or other Imprēimt

Ordered that the Capt take Care of the fortifica-[tions] within this Citty, and what Charge they shall be att in Repaires Mr. Mayor has Desired the Coll that the severall Capt will disburse ye same, to whome Rimbursmt shall be made out of the Publick Thresūrie of this Citty,

Ordered that In time of allarm the severall Companies do take Their Posts as foloweth

Capt William Merrit his Post from the Citty hall to the water gate, and also to take Care of the fortifications In that Line.

Capt Ebenesor wilson his Postt to take Care of the fortifications & blockhouse by the water-gate, and from thence westward to ye Bastion Zelandia, Inclusive

Capt Teunis De Keij his Post from the Bastion Zelandia, westward to the Block-house In the Govern gardn Inclusiue, with the Bastion hollandia, & the fortifications in that line.

Capt Christopher Gore his Post from the said Block house in the Govern Gardn, to the forth with the fortifications in that line.

Capt Brant Schüyler his Post from the Battery behinde the fort, Eastward to the Citty hall Exclusive, & the fortifications In that Line.

Capt John Merrit and his Compy in Times of allarm to apeare on the Plaijne Before the fort.

Orders to be observed on the Milletary wach of the Citty New York.

Imps That the waths be sett every Evening by beat of the drum and Continue till the beate of the revalje in the morning.

2th That the Respecktiue Companies shall by Equall turnes Enter upon the guard and that the Capt or in his absence his next Commission officer shall haue the sole Comand of their watch and that one Commission officer (at the Least) doe giue his Personall attendance thare under ye Pennalty of Tenn Shillings.

3th That the souldjers of the Respecktiue Compn upon due notice given, doe Personally apeare with armes and amonition as the Law dereckts at the Place of their Parade, and that Every Souldjer whoe Shall be absent after the Compn is departed from the said Paraad, doe forfitt the sum of Eighteen pence, that the Role shall be Read within half an hour after the mounting of the gard,

and whatsoever Souldjer shall be then absent doe forfitt three Shillings, unless the Oficer of the watch be Satisfyed that the defaulter is hindered by Sicknesse or other Impidiment.

4th. That no Souldjer shall goe from or absent himselfe from the watch, without Consent of his oficer unther the Penalty of fiue shillings.

5th. That whoesoever Shall Come upon the watch overcharged in drink, he or they shall Pay a fine of three Shillings.

6th. That Whoesoever shall Presume to make any Quarrell upon the watch, he or they shall Pay a fine of Six Shillings, and be further Lyable to such Censures as the merrit of the Cause shall Require.

7th. That no sentinall Presume to Come of his duty untill he be Relived unther a Sevier Senzure, which is to be at least Tenn Shill for a fine & three days Inprisonment and the oficer of the waths is to take Care that the duty of the Centinalls be Equally Proportioned, and not to Exceed aboue an hour at a Time.

8th. That frequent Rounds be made, and not less than Three Times a night.

9th. That noe Cursing, Swering, nor unlawfull gaming or Excessive drinking be suffered upon ye waths, unther the Penalty as the Law dereckts.

10th. That going the Rounds the waths be Still and not suffered any noise or Loud Talking in the Streets by any of them, under the Penalty of Two Shillings.

11th. That the gates of the Citty be lockt Every night at the beat of the Taptoe and opened in the morning at the beat of the revalje.

12th. That the Clark of the Company's doe Collecht the findes of the defaulters on the watch, by warrt of the Capt. Every morning after the said watch unless the said oficer Sees Cause to deferr the same, Provided it Exceeds not the Space of

fiue days, and if the party denys the Paym^{t} of y^{e} said fine, Power Shall be given to levy the same by distress with the Charges of one shilling more, for serving the Execution, dated at the Citty hall In New York 28th of march In the third Yeare of their Majest^{s} Reigne an^{o} Dom^{n} 1691.

Citty & County of New York. Court of Leftenancy held Saturday the 4. of July An^{o} 1691—

Pres^{t} Coll Bayard	Lef. Jer. Totill
Cap^{t} Brant Schuyler	Lef^{t} Rip vandam
Cap^{t} Teunis de Key	Left John Barbarie
Cap^{t} Ebenesor Wilson	Insigne J^{n} Van Cortland
Cap^{t} Cristop Gore	Insigne aswerus Harpending
Lef^{t} Tho. Wenham	Insigne m^{r} Bellen

It is ordered that the Rounds Shall goe about the Citty Every hour of the night after the Beat of the Taptoe & so to Continue ttill the Beat of the Revalje in the morning.

That a Sarch Shall be made for all the Citty Pouder that belongs to the Town Comp^{e} for which Purpose is apointed m^{r} Thomas Wenham m^{r} William Teller m^{r} Boelen & m^{r} Henry De meyer & after a delegant Seartch thareof to give an acc^{t} to the Coll of this Citty it is also ordered and agreed of that the alarm Post of Cap^{t} Schuyler Shall Extend from the Citty Hall Exclusive that Point to The Spur behinde Robert darkins which is to be Inclusive & Cap^{t} gore his Post to Extend from the Said Spurr to the Land gate the block house Inclusive.

Citty of N. York At a Court of Leftenancy houlden at the Citty Hall within the Said Citty on monday 24^{t} aug^{t} 1601.

Pres^{t} Coll Bayard,
Cap^{t} Merrit

Capt Schuyler
Capt wilson
Capt Gore

Lef Tho: wenham	Insig Jn v. Cortlant
Lef. will Teller	Ins. asw: harpzding
Left Rip V Dam	Insig. mr bellen
Lef Jeremy Totill	In. Jacobus Key
Lef. Jn barbarie	

Capt wilson making Complaint that Henry Le count, a Souldjer of his Compe upon Some Frivolous Pretences Refused to serve on the watch desiring the opinion of this board thereupon The said le count being sent for apeareth before this board and Pretended to be freed for being a Powder maker and haueing been Chose to officiate as a leftent before the govers arrivell and further using Some Threatning words against his Capt. it was Concluded by this bord that the said la Count was lyable to doe his duty as a Private Souldjer on the waths & for his Contempt to Pay the Provoost Marshall Six Shillings.

At a Court of Leftenancey at New York held on Monday 21 of Sept 1691.

Present

Coll Bayard	Lef. wenham	Insig. Harperding
Capt Merrit	Lef. Teller	
Capt Schuyler	Lef. Turtell	
Capt DeKey	Lef. Van Dam	
Capt wilson		
Capt Gore		
Capt John Merrit		

Capt william Merrit making Complainte that Tobyas Ten Eyck a Corporall of his Companm did Refuse to officiate his Place when he was Comanded by said Capts warrant upon which the Court orders him to Pay the sum of fourty Shillings.

Left. Barbarie Insigne mr benlin & Insigne Jacobus

deKey being absent are all To Pay There fines unless Suficiant Resons to the Contrary next Court day.

Att a Court of Leftenancy at N York held on vryday 6: Novr 1691.

Present

Coll Bayard
Capt merrit
Capt Schuyler
Capt wilson
Capt deKey
Capt wilson
Capt Gore

Lefts Jeremia Totthill
Left Rip Van Dam
Left John Barbarie
Left Nathaniel Pittmans

Left. Pittmans making Complaint against ariaen Cornelis for disobeying his Commands and Laing hand on said Left. this board has thought fitt to Committ ye said ariaen Cornelis till further orders.

The said Left. Pittman makes Complaint against Hendrik Cornelis and Theunis Idesen for drawing their Swords and other misdemeanors by them Committed. this board has Thought fitt to Inflicht upon Hendrich Cornelis to Comitt him to Prifson for Three days or Else to Pay the Sum of Twinty Shillings and it is agreed that Teunis Ideson Shall pay the Sum of Two Peses of Eight.

Att a Court Marshall held for the Citty & County of New Yorke att the House of Colo: Nicholas Bayard the 4th day of May 1692.

Present

Coll Nicho: Bayard
Ltt Colo. Gabriel Monvielle
Majr William Merritt
Capt Theunis deKey
Capt Ebenezer Willson
Thott wenham
Thott Clarke
John Merritt

Vpon hearing the Information and complaint of English Smith Marshall against Jn°. Winderford Goldsmith and the said Winderfords answer thereupon It appeared to this board that the said Winderford (to aggrivate the Crime for which he was lately some dayes Comitted has in a most Contemptious manner forcibly hindred and obstructed the said Marshall in the dischargeing of his duty and in serving of his Capt^s. Warrant with Violence assaulting the said Marshall and tareing the said Warrant in pieces bidding him to goe and tell his Capt. that he might come and Straine at his house If he dared with severall other villefying and mutinous Expressions and further the said John Windeford whilst he was upon Examination Vttered severall threatnings and reproachfull Speeches against his Captaine and other officers there present.

This Board has upon mature deliberation considered and doe hereby decree that the said John Windeford be amerced for his said contempt to pay the fine of Twenty pounds Curr^t. money and he to stand Comitted in the Comon Gaole of the Lieutenancy of this City until the first day of October next or until he pay the said ffine. N: Bayard.

At a Court Marshall held att the house of Major W^m. Merritt in New Yorke on Tuesday the 10^th. day of May A°. 1692.

Present

Coll Nicolas Bayard
Coll Gabriell Monviell
Maj^r. Will^m. Merritt
Capt. Brandt Schuyler
Theunis De Key
Ebenezar Willson
Thomas Wenham
Thomas Clarke
L^tt. W^m. Teller
Laurence Read

Capt Theunis De Key makeing Complaint agtt John Yeeds Abram Kittletass Johannes van Ler & Johannes Hardenbrooke for that the same persons were detached out of his Company on Yesterday in Order to serve on the present Expedition to Albany and being drawne out have made their Escapes refusing to obey their officers Comand. This board thereupon haue caused the said persons to be Sumoned before them by the Marshall who made returne they are not to be found.

Ordered that a Writt of Summons be left att their houses to make their appearances before this board tomorrow in the afternoon at three of the Clock by ring of bell at the house of Major Merritt to answer said Contempt.

Att a Court Marshall held att the house of Major Wm Merritt In New Yorke May the 11th Ao 1692.

Present

Coll Nicholas Bayard
Lt Coll Gabriel Monviell
Majr William Merritt
Capt Brandt Skuyler
Theunis de Key
Ebenezar Willson
Thomas Wenham
Thomas Clarke
John Merritt
Ltt William Teller
Ltt Lawrence Read
Rip Van Dam
Ensign Johanes Cortlandt

Ordered that the Guard house in the Mount Holandia be made a Prison for the Misdemeanours of the Lieutenancy of this Citty.

Ordered that Ltt Colo Monvielle & Capt Thomas Clarke see that the Guard house in the Mount abovesaid be Compleated and fitted a Prison as aforesaid.

Johannes Hardenbrooke this day appeareing before the Court Confessed his deserting his Colours being then in a passion.

Johannes van Laerd Likewise appeareing confessed himselfe tardy in said ffact of deserting his Colo^{rs}.

Abraham Kittletasse appearing confessed himselfe tardy in said ffact.

Ordered that Johannes Hardenbrooke Van Laerd and Abraham Kittletasse aforementioned severally Confessing their contempt in deserting their armes and submitting themselves to this board are ffined the sume of three pound Curr^{t} money each of them.

The Marshall made Oath that he delivered a Writt of Summons into the hands of Timon van Bussen for his Apprentice or Servant John Yeeds whereupon the said John Yeeds is ffined the summe of Three pounds Curr^{t} money for his Contempt

Citty of New Yorke Att a Court Marshall held Thursday the 7th July 1692 at the hoase of Maj^{r} Merritt within said Citty

P^{r} Sent
Coll Nicholas Bayard
Maj^{r} W^{m} Merritt
Cap^{t} Brandt Schuyler
Theunis de Key
Ebenezer Willson
Tho: Clarke

Agreed that Cap^{t} Shuyler Allarmd Post shall begin from the West end of the Pearle Street to the Battery before the Stadt House Inclusive

And that of Cap^{t} Clarkes to begin from the West End of the Pearle Street to the gate in the broad Way

Vpon the good Character Returned by Cap^{t} de Key of the good behaviour of the following persons at Albany Ordered that the said persons Viz^{t} Johannes

Hardenbrooke Johannes van Laerd and Abraham Kittletasse be remitted their ffines paying each of them Six Shillings to the Clarke and three Shillings to the Marshall and thereupon dismissed.

Ordered that the twelfth Article in the orders for the military watch be amended as ffolloweth.

That the Marshall with the Serjeant or Corporall doe Collect the ffines by the Warrant of the Capt and If the partye denyes the paymt one Shilling more shall be pay'd towards the Execution and the Marshall is hereby Empowered to make Sale of the offenders goods before the head of the Company returning to the owners the overplus.

Ordered that Lt Coll Monvielle and Lt Read for their absence pay their ffines being three Shillings a Ps according to former order.

Ordered that all persons Listed in their Respective Companyes during the time they are beyond the Sea shall be excused from the night guard.

Upon complaint of the Marshall against William Davis for the Resisting the said Marshall in the Execucõn of his office.

Ordered that the said William Davis be taken into Custody or give Security to appeare the next Court Marshall.

Citty of New Yorke Att a Court Marshall held Wednesday the 13th of July Ao 1692, att the house of Major William Merritt.

Prsent.

Coll Nicholas Bayard
Majr William Merritt
Capt Brandt Schuyler
Ebenezar Willson
Thomas Clarke
Laurence Read

Ordered that the Sherriffe pay all the fines due by Virtue of the late Act of Assembly from the severall

Defaulters within this Citty and County unto the Colo.

Ordered that Jacobus van Rollegum being under Execucon for his default the last detachment his ffine is remitted unto the Summe of forty two shillings.

Ordered that Hosiah Guleine being under Execucon for his default the last detachment his ffine is remitted unto the sume of three pounds.

Citty of N. York Att a Court of Lieutenancy held friday the 15th July 1692 at the house of Major William Merritts within said Citty.

Coll Nicholas Bayard
Lt. Coll Gabriell Monviell
Majr William Merritt
Captt Brandt Schuyler
Teunis de Key
Ebenezar Willson
Thomas Clarke
John Merritt
Laurence Read
Lt William Teller
Jeremiah Tothill
Isaac de Vries
Ensignn Jacobus de Key
Assuerus Harberding
Robert White

Ordered that Lieutenant Rip van Dam & Ensigne Johannes demire pay each of them their ffines for there absence without Sufficient cause given by them to the Contrary.

Ordered that there be an Artillery Compa of the Train bands of this Citty consisting of the Commission Officers Staffe Officers and Corporalls who are to meet every Saturday in the afternone Completely armed as the Law directs by beate of the Drumme at the Mount Selandia, under the Penalty of three Shillings for every

default of any Commission Officier and one Shilling and six pence for default of any Staff officer or Corporall for not appearing as aforesaid and that the Execucõn for any Defaulters shall be Issued out by any of the ffield Officers.

Citty of New York Att a Court Marshall held ffryday the 12th Aug. Ao 1692 at the house of Maj. William Merritt

Pr sent
Coll Nicolas Bayard
Majr Wm Merritt
Capt Brandt Skuyler
Theunis De Key
Ebinezar Willson
Thott Clarke
John Merritt
Lawrence Read
Ltt Isaac Dffriez

Ordered that Claus Garretson for his default in not appearing in Armes at his Parole according to the Act of Assembly not knowing anything of the Act as he alleadgeth and being just upon his Sayleing pay the sume of ffifty shillings Currt money and the ffees to be payed out of said money.

Ordered that Conraedt Ten Eyck in consideracõn of haueing Sent a man up for Albany pay for his Default in not appeareing in Armes at his Parole according To the Act of Assembly but the sume of Thirty Shillings Currt money & the ffees to be payd out of the Same.

Citty of N: Yorke Att a Court of Lieutenancy held att the house of Major William Merritt on Wednesday ye 28th day of Decembr 1692.

Present
Coll. Abrãm D Peyster
Major Will Merritt
Augustine Graham Adjutant.

Capts.
Brandt Schuyler
John Merritt
Johannes D Peyster
Johannes Kipp
Thomas Lyndall
Isaac Van Flack

Lieuts.	Ensignes
William Teller	Johannes Cortlandt
Asheuerus Harpendinck	Jacobus D Key
Michael Boughchier	Robert White .
John Thebolls	Cornelius D Peyster
	Johannes Van Bruggh
	Samuel Van Plank
	Hendrick Van Balle

This day William Welch was appointed by this board to be Marshall to the Regiment of Militia foot belonging to this Citty.

Ordered that the said William Welch have as A Sallary for the said Office thirty Shilings pr Ann from each respective Company which shall be paid out of the fines of the said Companies; the Drums and Colours being first paid for as the Law directs, but in case the said fines will not pay the Salary Soe appointed, the Drums and Colours first pay'd as aforesaid that then the said sallery shall be pay'd by the souldiers of each Company, by equal proportion.

Order'd that every Commission officer upon due warning given shall appear att the Court of Lieutenancy within half an hour after ringing of the first Bell under the penalty of paying three Shillings unless hindered by Sickness or other Impediment.

Order'd that Seven Commission officers doe make A quorum of this Court (viz^{t}) the Coll. Lieut Coll and Major or one field officer at least, three Capt^{s} three other Commission officers and not otherwise.

ORDERS TO BE OBSERVED ON THE MILITARY GUARD OF THE CITY OF NEW YORKE

Imp. That a Drum doe beat round the Citty every night by equal turns presently after Sun Sett under the penalty of ten Shillings.

2. That the Guard be mounted presently after the beat of drum before its dark and to Continue their till the boat of the Revalye in the morning,

3. That A Commission officer have the Sole Command of the Guard, and that every Commission officer by his equal turn shall give his personal attendance, att the mounting of the Guard, under the penalty of ten Shilings, and to continue their till y^e^ Guard be discharged.

4. That a Sargeant of each respective Company by his equal turn doe Summon three men of his said Company every night well armed and [with] ammunition as the Law directs, to mount the Guard; and that the Sarg^ts^ doe attend att y^e^ Parade to receive orders where the Major or adjutant will be to give the same, which orders each Sarjeant is to Carry to his respective officers, under the penalty of ten Shillings.

5. That each respective Soldier, upon due notice given shall be att the Parade immediately after the beat of the Drum to mount the Guard well arm'd, and, Ammunition as the Law directs, under the penalty of three Shillings.

6. That noe Soldier Shall goe from or absent himself from the Guard without Consent of the officer of the Guard under the penalty of five Shillings.

7. That whosoever shall Come to the Guard overcharged in drink *he or they* shall pay a fine of three Shillings.

8. That whosoever shall presume to make any quarrell (or be disorderly) upon the Guard, *he or they*, shall pay A fine of Six Shillings and be further

lyable to such Censures as the merrit of the Cause shall require, punished.

9. That noe Sentinell presume to leave his Post untill he be relieved under the penalty of ten Shilings and three days Imprisonment, And the officer of the Guard is to take Care that the Soldiers doe equal duty, and noe Sentinell to be posted above an hour att A time.

10. That frequent Rounds be made and not less than three times A night, that they make noe noise or loud talking in the Streets under the penalty of two Shilings for each offender.

11. That noe Cursing, Swearing, unlawfull Gameing or excessive drinking be suffer'd on the Guard under the penalty as the Law directs.

12. That the Marshall with the Serjeant or Corporall doe Collect the fines, by the Warrant of the Capt and if any person denies the payment, one Shiling more shall be paid towards the Execution, And the Marshall is hereby Impowered to make Sale of the offenders goods before the head of the Company returning to the owners the overplus.

Dated att the Citty Hall in New Yorke the 28th day of Decembr. Anno Dom. 1692.

Citty of New Yorke Att A Court of Lieutenancy held att the House of Major Merritt on Saturday ye 7th day of January Ann. Dom. $169\frac{2}{3}$.

Present.
Coll A. DPeyster
Major Will. Merritt

Capts	Lievts.
Brandt Schuyler	William Teller
John Merritt	Henry Jacobs
Johannes DPeyster	Asheuerus Harpendinck
Johannes Kipp	Michael Bougchier
Thomas Lyndall	John Theobald
Isaac VanFlack	Giles Shelley

Ensigns.
Robert White
Cornelius D : Peyster
Johannes Van Bruggh
Samuel Van Plank
Hendrick Van Bael

The above Orders being 12 in number were read and approv'd on by this board, Ordered likewise that they should be sign'd by the Coll and be put up in the Guard.

Order'd That William Sharpas be appointed Clerk to the Lieutenancy, and have A Sallary of Six pounds p. ann to be paid out of the Fines, but in Case they fall short, to be paid by A Gen^{ll} Contribution of the Lieutenancy

Order'd that after the Court of Lieutenancy or Court Marshall be sett down, noe person to rise from the place without leave from the officer then Commanding under the penalty of one Shiling & sixpence.

Order'd that whatever fines shall Accrue by default of Commission officers, shall be paid to the Clark, and upon refusall of the said payment by any of the aforesaid officers, they shall be distrained by Warr^{t} from y^{e} Coll. or next officer then Commanding, and to pay one Shiling to the Clark, and one Shilling more for the Execution ; The Clark is likewise Appointed to receive the said fines, and to keep A perfect Account of the Same.

Order'd that the Clark of the Lieutenancy be Appointed to write all Warrants of Distring as belonging to the Redgiment of Militia foott of this Citty, and that he have Sixpence from every person mentioned in each Warr^{t} if Execution be done and not otherwise.

Citty of New Yorke Att a Court of Lieutenancy held att y^{e} house of Maj^{r} William on Munday y^{e} 3^{d} day of April Anno 1693.

Present.

Coll A: D:Peyster, Lt Coll. Lodwick, Majr Will Merritt.

Captns	Lieuts
Brandt Schuyler	Ash: Harpendinch
John D. Brown	Michael Bouchier
John D: Peyster	John Theobald
John Kipp	Giles Sheley
Thomas Lyndall	
Isaac Van Flack	

Ensigns.

John Cortlandt
John Van Broughon
Hend. Van Bael

Order'd that every Capt. of ye Redgiment of Militia foot of this Citty doe make A true Account of what powder, Ball, Spunges Ladles and what other things they have belonging to the several and Respective Platt Forms & Block houses wch they Command and likewise what is wanting and Necessary for ye Defence of ye said Places and make return thereof to Major Merritt by Wensday next.

Order'd that an Address be drawn up to his Excellency ye Governour Representing the Conveniency of Repairing ye Fortifications round this Citty, And yt ye Income of the Weighhouse of ye said Citty May be Appropriated towards Defraying ye Charge thereof as formerly; and that Coll. D. Peyster take Care ye sd Address be According Drawn.

Order'd yt each Respective Capt doe give to the Marshall by to Morrow Night A List of the Defaulters yt appeared not in Arms att the time of his Excellency's late Expedition to Albany And likewise those who appeared not in Arms att his Excellencies Return. And that ye said Captns doe bring in A fair Role of their Respective Company's to the next Lieutenancy.

Order'd that ye Marshall doe Summons all the said Defaulters that shall be return'd by ye said Captns to

appear att the next Court of Lieutenancy to be held att three a clock in y^e^ Afternoon on Friday next.

Court Adjourn'd till Friday next at three A Clock in y^e^ Afternoon.

Citty of N: Yorke Att A Court of Lieutenancy held att y^e^ Citty Hall of y^e^ said Citty on Friday y^e^ 7^th^ day of April Ann Dom. 1693.

Present

Coll.	Lt. Coll.	Maj^r^
Abraham D'Peyster.	Charles Lodwick	Will Merrett.
Capt^s^	L^ts^	Ensigns.
Brandt Schuyler	Isaac D'Foreest	Robert White
John Merrett	Ash: Harpendinch	John Cortlandt
John D. Brown	John Theobald	Jacob D Key
John Kipp		Corn: D: Peyster
John D'Peyster		John vanBrugh
Thomas Lyndall		Samuel Van Plank
Isaac Van Flach		
Gerrard Dow.		

Humphrey Hull of Capt. Schuylers Company Appeared & Giveing y^e^ Court a reasonable Excuse why he was not in arms on y^e^ day of his Excellencies late expedition to Albany was accordingly dismissed.

John Cousart of y^e^ same Company & same default Nihil dicit y^e^ Court fines him five Shillings.

Benjamin Blydenburgh of y^e^ same Company for not Appearing att his Ex^ys^ return from Albany was likewise fin'd five Shilings.

Isaac Van Hooke of Capt D Peysters Company not appearing on y^e^ day of y^e^ last Expedition fin'd five Shilings.

Capt Van Flecks C^p^ James Mills fin'd for both Defaults ten Shilings.

Robert Stapleton of Capt Van Flack's Company fin'd ten Shilings for both Defaults, excus'd

Samuel Beekman of Capt Kipp's Company fin'd ten shilings for both Defaults.

Richard Groonar of Capt. Van Flack's Company acquitted upon reasonable excuse

Order'd that John Patrick of Capt Van Flack's Company be Summons'd to appear at ye next Court of Lieutenancy to answer to such things as shall be objected Against him.

Ordered that all officers belonging to ye Redgimt of Militia foot of this Citty that shall Appear in ye Streets walking without their swords and be Convict thereof by any officer of ye said Regmt or Marshall shall pay A fine of one Shiling & Sixpence for each said Default & to be paid to ye Lieutenancy & and if any Convicted by the Marshall he to have ye half of ye said Fine for his Information.

Order'd that Ensign White & Ensign Cortlandt do pay as A fine one shilling & sixpence each for not Appearing in half an hour of ye Ring of ye Bell.

Order'd that Lt Shelley & Ensign Van Bael doe pay as a Fine three Shillings each for not Appearing.

Adjourn'd till 3 of ye Clock on Friday next.

Citty of N: Yorke Att a Court of Lieutenancy held att ye house of Edward Buckmaster July ye 5th 1693.

Present

Coll.
A. D. Peyster

Major
Will. Merritt

Capts
Brandt Schuyler
John Merrett
John Kipp
Thomas Lyndall
Isaac van Flack
Gerrard Dow

Lieuts
Isaac D. Foreest
John Theobald
Giles Shelley

Ensns
Robert White
John van Bruggh
Samuel van Plank

Order'd that y^e^ former Order Concerning Regulateing the Guard be put In Execution that the Marshal English Smith doe goe to y^e^ Guard every night An hour after y^e^ Drum beats, & Call Over y^e^ Ticketts of each Respective Company appointed for that Night's Guard, and to take an Account of y^e^ Persons absent y^t^ they pay their fines According as the Law directs. That y^e^ Marshall Alsoe doe Carry the names of y^e^ Defaulters to their respective Capt^s^ & that y^e^ said Capt^s^ doe (upon y^e^ refusall of any of the said defaulters to pay their fines) before twelve O'Clock the next day direct A Warr^t^ to distrain on y^e^ said Defaulters, Sickness only excused; and if any Capt or in his absence y^e^ next Commanding officer of each Respective Company shall refuse to Sign Any such Warr^t^ y^e^ said Cap^t^ or other Commanding officer of ye said Company shall (being Convict thereof) forfeit as A fine to y^e^ Court of Lieutenancy three Shilings for each person they shall so excuse to be levyed on y^e^ Cap^ts^ &c. as aforesaid by Warr^t^ from the Coll. or in his absence the next Commanding field officer, & to be served by y^e^ Marshall.

Order'd y^t^ if y^e^ Marshall be sick or out of town the Coll doe appoint some other person to officiate in his said place.

Order'd whenever any of y^e^ Lieut^s^ or Ensigns of the Respective Companies are Absent & out of Town y^t^ the Cap^t^ of such Companies where such officers shall be wanting doe Appoint A Serjeant of y^e^ said Company to officiate in y^e^ said place till y^e^ return of the said officers.

Order'd that Cap^t^ Kipp Cap^t^ Van Flack Adj^t^ Graham L^t^ Fooreest L^t^ Theobald L^t^ Shelley Ens^n^ White Ens^n^ Van Bruggh & Ens^n^ Van Plank doe pay a fine of one Shilling & six pence each for walking in the Streets without their swords, Which they accordingly paid Ensign White only excepted.

Order'd that Ensign Cortlandt, Ensign D Peyster Lt. Teller Ens^n^ D Key Ensign Van Bael & Cap^t^ D

Brown doe pay y^e^ same fine for y^e^ same Default att their Appearance att y^e^ Lieutenancy.

Citty of N. Yorke Att Court of Lieutenancy held att y^e^ said Citty the 24^th^ day of Nov^br^ Ann. Dom. 1693.

Present

A. D Peyster Coll. Will Merritt Maj^r^

Capts	Lts	Ensns
Brandt Schuyler	Giles Shelley	Henry Van Bael
John Merrett	John Theobalds	Jacob D Key
John D Broyon		Sam: Van Planke
Thomas Lyndall		
John D. Peyster		
Isaac Van Flack		

Order'd y^t^ y^e^ Colle doe Issue out a Warrant to English Smith Marshall and A Sarj^t^ or Corp^ll^ of each respective Company Within this Citty that they Levy of the severall Defaulters of each respective Comp: Aforesaid the sum of five Shilings each person for not Appearing in Arms this present day according to beat of Drum & Act of Assembly in y^t^ Case made and Provided.

Citty of N: York Att A Court Marshall held for the said Citty att the Citty Hall of y^e^ said Citty y^e^ 9^th^ July 1694.

Present

Coll. A. D. Peyster Maj^r^ Will Merritt

Capts	Lieuts	
Brandt Schuyler	John Theobald	Robert White
John Merrett	Giles Shelley	George Roscarrick
John D Bruyn	Will Teller	
John D Peyster		
John Kip		
Thomas Lyndall		
Isaac Van Vlecq		
Gerard Douw		

His Excellencies Commission for the Establishing A Court Marshall was Published and Ordered that the same be Recorded (Viz^{t})

BENJAMIN FLETCHER *Cap^{t} Gen^{ll} and Governour in Chiefe of their Majesties Province of New Yorke Province of Pensilvania County of New Castle and all the Territories and Tracts of Land depending thereon in America and Vice Admiral of the same their Majesties Lieut & Commander in Chiefe of the Militia and of all the Forces by Sea and Land within their Maj^{ts} Collony of Connecticutt and of all y^{e} Forts and places of Strength within the same.*

Sigillum

Whereas I finde itt Necessary for their Majesties Service in this time of actual Warr to Erect and Establish a Court Marshall in the Citty of New Yorke for the better Rule Government & Discipline of the Militia

Know Yee that by Vertue of the power and Authority Granted unto me by their Majesties Letters Pattents for y^{e} Government of the Province of New Yorke and Dependencies I doe hereby Erect and Establish A Court Martial in the Said Citty which said Court shall Consist of A President Judge Advocate the Capt^{s} and other Commission officers of the Citty Regiment whereof the President & Six att least of the Capts. or of y^{e} Lieuts. in the Absence of the Cap^{ts} shall allways be Present, And I doe hereby Grant unto the said President and six att least of the Cap^{ts} or Commission officers full power to hear Judge and Determine all Criminalls or Offenders Pursuant to an Act of Generall Assembly made in this Province Intituled An Act for settling the Militia And to Award Execution Accordingly to which End itt shall be in the power of the President of y^{e} said Court to Issue forth his Orders for the Calling the said Court together from time to time att such Convenient place and Soe often as shall

be Necessary for the hearing Judging and Determining such offenders as Aforesaid and I doe by these Presents Nominate Constitute and Appoint Coll. Abraham D: Peyster to be President of the said Court and In Case of his Absence the next field officer of the said Regiment that shall be Resident in the said Citty shall Preside in the said Court. And I doe hereby Nominate Constitute & appoint James Graham Esq to be Judge Advocate.

Provided allways that noe Punishment upon any Decree or Sentence of said Court shall be Inflicted upon Offenders to the Losse of Life or Member untill Notice thereof shall be first Given to me and my Pleasure shall be thereupon made known.

Provided, also that from time to time as the said Court Martiall shall Sitt the President shall forthwith thereupon Transmitt unto me A True Coppy of all the Proceedings of the said Court and the Power and Authority Granted by this Commission to Remaine in force Dureing my Pleasure. Given under my hand and Seale att Arms att Fort William Henry the fifth day of July, 1694. Annoqs RR & Re Will & Maria Angl. &c: Sexto.

BEN: FLETCHER.

By his Excellencies Cõmand.
DAN: HONAN.

To the Hon^ble^ Coll. Abraham D: Peyster President of the Court Martial holden for the Militia of the Citty of New Yorke

The humble Complaint of Andrew Grove Marshall of the said Citty Militia.

Andrew Grove Marshall of the Militia of the Citty of New Yorke sheweth and informeth this Hon^ble^ Court that on y^e^ day of June Last the Regm^t^ of this Citty being Called to be in Armes by order of Coll D. Peyster to Receive such Orders and Directions for their Maj^ts^ Service as the Cap^t^ Gen^ll^ should appoint and being then in such Posture Johannes Vandespiegel

Cornelius Boolston & Arent Fredrickson did in a Mutinous and Seditious Manner deny to Yield Obedience vnto the Command of their Superior Officer Major William Merrett but also Contrary to their Dvty & Laws of Arms did Mutinously Afsault the said Major Merrett when he was Executeing his Excell^{cs} y^{e} Cap^{t} Gen^{ll}^{s} Commands for their Majesties Service by Menaceing Language and Laying his hand upon his Sword to the Evil Example of Others & to the Contempt of Martial Discipline & y^{e} Articles of Warr in that Case Made and Provided; and Further he Giveth this Court to Understand and be Informed that Cornelius Boolston did then also Mutinously Afsault the said Major but the blow Missing stroke his horse to the like Evil Example &c & also Arent Fredrickson did when the said Major Gave Order to some Officer to Execute his Commands According to the Discipline of Warr Mutinously Resist the same and Mutinously Encouraged Others of the Regiment to Disobey the said Majors Commands to the like Evil Example &^{c} and Also one Gerrard Cousine when Commanded to stand Sentinell by his officer did likewise Refuse the said Comand to the Great Discouragement of Military Discipline and Evil Example of others &c: and further that one Jacobus Berry one of y^{e} Drummers of the Regiment Refused to beat a Call when thereunto required by his Capt. to the Great Disapointment of their Maj^{ts} Service & the Evil Example &^{c} & Farther the said Marshall Giveth this Hon^{ble} Court to be Informed that one Sam^{ll} VerPlanke one of the Ensigns of y^{e} said Citty Regiment when upon the Guard of y^{e} said Citty did Mutinously Refuse to lett the said Major Merrett to Examine the said Guard According to the Rules of Warr, but did likewise order the next under his Command to Resist the said Major in the Execution of his Duty to the great Discouragem^{t} of all Military Discipline & Evil Example of Others &^{c}: whereupon the said Marshall Craves the Consideration of this Hon^{ble} Court and y^{t} the Delinquents

may be Corrected and Punished According to the Articles of Warr for a Terrour and Example to others and for that Purpose Exhibits this Complaint.

Whereupon the above Named John Vandespiegel personally appeared According to Summons and in Answer to the said Complaint Says that he is not Guilty of y^e^ Mutiny in the Above Complaint alledged & further says that when the said Maj^r^ Merrett Pushed him Backwards his Sword gott between his Leggs & y^t^ he onely put his hand to the same to Disengage itt and not with Intent to Afsault the said Major.

whereupon the Court haveing taken the same Into Consideration did Order that the s^d^ John Vandespiegel should be Check'd for his Misdemeanor & be Discharg'd of the same paying Costs of Court.

And the said Cornelius Boolston personally Appeared and says that his Gun did hitt the Majors horse but that itt was not Mutinously Intended as is sett forth in the Complaint Aforesaid, whereupon the Court Ordered y^t^ he be Acquitted & to pay Costs.

And the said Arent Fredrickson personally Appeared and in Defence says that he is not Guilty of anything ag^t^ him Alleadged in the Complaint by the said Andrew Grove Exhibited, whereupon Cap^t^ John Merrett being sworn doth Declare that he heard the said Arent Fredrickson say (to a Person y^t^ was ordered to be Committed A Prisoner for some Misdemeanor) doe not deliver your Arms whereupon the Premises being fully understood y^e^ Court Ordered that y^e^ said Arent Fredrickson should pay the Sum of five Pounds Currant Money of New Yorke for the Misdemeanor in the said Complaint Alleadged & also Costs of Court.

Jacobus Barry in person appeared & Saith that he is Not Guilty of any thing as in the Complaint Exhibited Ag^t^ him if Alleadged & further says that his Drum was [out of] order & y^t^ he had Liberty from his Cap^t^ to Goe home and mend the Same upon which the Court Dismifsed him.

And the said Ensign Ver Planke personally Came into Court and in Answer to the aforesaid Complaint Saith y^{t} the Major forced in Upon the Guard, y^{t} he did Deny to Give the Major the word & y^{t} he also Order'd y^{e} Guard not to obey the said Major, Upon which the Court Order'd that Upon his Submfision to y^{e} Major & Acknowledgment of his Errour he be Acquitted from further Paying Fees of the Court.

Citty of N: Yorke Att a Court Martial held att y^{e} Citty Hall of y^{e} said Citty on Wensday the 24th Octob^{r} 1694.

Present

Coll A D. Peyster, Major Will Merrett, Ja. Graham, J. Advoca.

Capt^{s}	Lieu^{ts}	Ensigns.
Brandt Schuyler	Will Teller	Cornelius D. Peyster.
John Merrett	John Theobald	
John Kip	Rob^{t} White	
John D: Peyster		

Order'd that the Several Capt^{s} within y^{e} Respective Wards of this Citty doe bring in a List of all the men of what Quality or Condition Soever Resideing Sojourning or Inhabiting therein that are Capable to bear Arms unto Col A: D: Peyster att or before Tuesday Next att two of the Clock in the Afternoon under the Penalty of twenty Shilings for each Offence (viz^{t})

Capt. Schuyler	South Ward
Cap^{t} Willson	East Ward
Cap^{t} D: Bruyn	West Ward
Cap^{t} D: Peyster	Dock Ward
Cap^{t} Van Vlecq	North Ward
Cap^{t} Douw	Out Ward

which Order is to be Executed by the above Named Cap^{ts} or in their Absence by the officer Commanding their Respective Companies.

Mr English Smith is Appointed Marshall of the Regimt of Militia foot within this Citty.

Citty of N: York Att a Court Marshall held att the Citty Hall of ye said Citty on the 30th of Octobr 1694.

Present
Coll. A: D: Peyster Majr Will Merrett

Captns	Lieutns	Ensignes
Brandt Schuyler	Will Teller	Andrew Teller
John Kip	John Theobald	
John D: Peyster		
Gerrard Douw		

The several Defaulters that Appeared not in Arms on the 22d Instant in Order for the Detaching the men for Albany were Summoned to appear before this Court to answer the said Contempt and Accordingly several of them personally Came & offer'd their reasons why they did not Appear in Arms as Aforesaid who were distinctly heard, whereupon the Court referr'd their Judgment till the next Court Marshall, & dismissed them.

Citty of N: Yorke Att a Court Martial held at the house of Mr Buckmaster on Wensday the 21st of Novbr 1894.

Present
Coll A. D: Peyster, Major Will Merrett
J. Graham Esq. J: A:

Captns.	Lieuts.	Ensigns.
Brandt Schuyler		George Rosscarrick
John Kipp		Andrew Teller
John D: Peyster		
Isaac Van Vlecq.		

The List being Called over halfe an hour after the bell ringing & Lt Will Teller Lt John Theobald & Lt Giles Shelley being personally Summoned and not

Comeing to this Court According to the said Summons.

Order'd y^t^ they Respectively pay the sum of three shilings as a fine for the said Default.

The following fees were this day Established for the Court Martial & Order'd the same be Entred (viz^t^)

Judge Advocate's Fees.

	lb	s	d
Drawing Libell - - - - -	00	10	00
For Attendance at Every Court Marshall -	00	10	00
for Impleading Every Delinquent &c - -	00	10	00

Clerke's Fees.

Every Summons - - - - -	00	01	00
Entring return of the Summons - -	00	00	06
fyling Libell - - - - - -	00	00	09
Reading y^e^ Same in Court - - -	00	00	09
Entering Plea or Answer - - - -	00	03	00
fyling Plea - - - - - -	00	00	09
An order for hearing - - - -	00	01	06
Entring Judgm^t^ - - - - -	00	03	00
Execution of y^e^ Judgm^t^ - - - -	00	04	06
Every Committm^t^ to y^e^ Custody of y^e^ Marshall - - - - - -	00	03	00
to a Sum̃ons for each Witness - - -	00	00	4½
Swearing each Witness - - - -	00	00	4½

Marshall^s^ Fees.

Serveing each Summons - - - -	00	01	06
Returning the same - - - - -	00	00	09
Attendance on Every Court Martial - -	00	01	06
Every Committment - - - -	00	06	00
Summonsing each Wittness - - -	00	01	00
Swearing Every Wittness - - -	00	00	4½
Serveing Execution - - - - -	00	06	00

Order'd y^t^ Major Merrett & the Cap^ts^ of the Regiment of Militia foot belonging to this City or any three

of them doe draw up such orders and Directions as may be found Convenient for the Regulateing the Night Guard of this Citty and to bring them to the President for his Approbation in Order to their Publication and that all Persons Yield due Obedience accordingly.

Order'd y^t^ all the persons return'd by y^e^ Respective Cap^ts^ as Dilinquents for not Appearing in Arms on the 22^d^ day of October Last According to y^e^ warning by beat of Drum doe Respectively pay the sum of ten Shilings for the said Default together with the Incidental Charges that shall arise thereon.

The Several Persons herafter named being Severally heard the Last Court Martial & the Court haveing Considered of their Answers doe finde them not Sufficient to Excuse them of y^e^ Defaults, whereupon itt is Order'd that they respectively pay their Fines according to the above Order.

Cap^t^ Schuylers Comp.
Richard Willett
Lucas Kerstead
Hanse Burger
Andrew Gravenraet
Philip French
Peter Couelier
Johannes Vanderhule
Humphrey Hull
Abraham Pieterson
David D. Foreest
Thomas Roberts

Cap^t^ Wilsons Company.
John Shudine
Will Elsworth
Elias Poste
Peter Newkirke
John Patrick
Clam Elsworth
John Robinson
John Finey
Henry Brasher

Cap^t^ Merretts.
Henry Kembal
John Windower
John Dyckman
Edward Cox
Edward Court

Cap^t^ D: Bruyns.
Benjamin Herring
Rob^t^ Downs.

Capt. D: Peyster	*Capt. Van Vleg.*
Gerrett Viele	Will Heyer
Hendrick Machelor	John Hardenberg
Robt Walters	Michael Toose
Andries Moyr	
Martin Beeckman	

Capt. Kip.	*Capt. Douw*
Ashuerus Hendricks	Thomas Man
Peter Janse Bante	

Citty of N: Yorke Att a Meeting of ye Officers of the Regiment of Militia foot belonging to the said Citty att ye Citty Hall of the said Citty on the 17th of April 1695.

Present Coll Abr. D: Peyster
Major Will Merrett

Capts.	Lieuts.	Ensigns.
Brandt Schuyler	Will. Teller	George Rosscarrick
Ebenezer Willson	Giles Shelley	Cornelius D Peyster
John Merrett	Robt Walters	Hendrick Van Bael
John Kip		Saml Ver Planke
John D. Peyster		Michael Toose
Gerrard Douw		
John Tuder		

A Letter from his Excellency the Capt. Gen'll Directed to Coll Abraham D'Peyster for their Majesties Service was read, And Among Other things did Require that the Coll should forthwith upon Receipt thereof Cause to be drawn out of the Regiment of militia foot of New Yorke twenty five men with arms and ammunition be the Quota of one hundred to be ready forthwith att New Yorke in order to their Transportation to Albany for the Defence and security of the frontiers of this Province. Whereupon the Capts declared they were ready to Obey the said Order Provided the Coll. would give them warrants for soe doing.

And Accordingly itt is Ordered that the Clarke prepare Warrants for each respective Capt. to detach three men out of their Respective Companys and Capt. John D Peyster to attach four.

Citty of New Yorke Att a Courte Martiall held att the Citty Hall of the said Citty on Fryday the fifth day of June anno Dom. 1696.

Present

Coll. Abraham D. Peyster. Lt Col. Charles Lodwick

Capts.	Lieuts.	Ensigns.
Brandt Schuyler	Jacobus DeKey	Cornelius D Peyster
EbenezerWillson		George Roscarrick
John Merrett		Andries Teller
John Kip		Michael Toose
John D: Peyster		
John Tudor		

William Churcher, A sentinell in Capt. Tudors Company was yesterday Committed into the Marshalls Custody for Refusing to Appear in Arms (itt being a Genll Training day and a day of Thanksgiving for his Majesties great preservation from the horrid Conspiracy Intended Agt his Royall person &c:) being Commanded thereto by the Lieut Coll in person and for Giving the said Lieut Coll Insolent Language Contrary to the Law of Arms &c: and the said Churcher being brought before the Board did alleadge that he had a Commission for a Lieutenant under Leisler and did then say that he would not Appear in Arms in any inferior station that being sufficient to discharge him &c: Whereupon this Courte having duly Considered the whole matter and finding Nothing Alleaged sufficient to discharge him of the Contempt Aforesaid did Amerce him the sum of ten pounds Currt Money of New Yorke for the said Contempt or Else suffer six Months Imprisonment and the Marshall is hereby Ordered to keep the said Churcher in.

safe Custody till he pay the said fine or till the said six months are Expired.

Citty of New Yorke. Att a Meeting of the Military Officers the 31st day of July Anno Dom. 1696.

Present

Coll Abraham D Peyster L^{t} Col. Charles Lodwick, Major Will Merrett

Capts.	Lieuts.	Ensigns.
Brandt Schuyler	Jacobus DeKey	Andreas Teller
Ebenezer Willson,	Robert Walters	Michael Toose
John Merrett		
John D: Bruyn		
John Kip		
John D: Peyster		
John Tudor		

The Coll Acquainted this Board that his Excellency the Capt Gen^{ll} had Received Intelligence that the French of Canada and their Indians had some attempt Upon our sentries att Albany and that his Excellency had Ordered him to Call the Military Officers of this Citty together in Order to know what persons were willing to goe to Defend the same under his Excellencies Command—he being designed to goe thither to Morrow in person—Whereupon itt is ordered that Proclamation be forthwith made by beat of drum for all persons that are willing to goe as Volunteers for the Defence of the same that they Appear to Morrow morning between the hours of nine and twelve att the Parade before the forte where an Officer is ordered to Receive them, and that for their Encouragement Convenient Accommodations be Provided for their Transport to Albany, that they shall not be Obliged to Remaine longer there then his Excell And that att their Return home Each man shall Receive twelve pence Every day he is in the said service besides his Provision And accordingly proclamation was made.

Citty of New Yorke Att a Courte Martiall held att the Citty Hall of the said Citty on Thursday the 3d September 1696

Present

Coll. Abraham D:Peyster president Lt Coll Charle Lodwick

Capts	Lieuts.
Brandt Schuyler	Robert White
Eben Willson	Jacobus DeKey
John Kip	Robt Walters
John D:Peyster	
John Tuder	

William Haywood Ship Carpenter being sworne did Depose that about three weeks since he heard one Edward Cox, a sentinell in Capt John Merrett's Company of Militia foot say that he would breake the bones of John Ellison a Sergeant in the said Company because he distrained for a fine att his house and the said John Ellison Appeared before this board & Informed them that on Tuesday Night last Upon the Guard of this Citty the said Edward Coxe did strike and Abuse him And Ensign George Roscarrick being Capt. of the Guard that Night did Informe this Courte that the said Edward Coxe Assaulted the said Sarjeant upon which he committed him a prisoner Upon the Guard. William Jewell a Sentinell in Capt Merretts Company being sworne declared that on Tuesday Night last after the Guard was mounted the said Edward Cox had his gun Clubd & was going of the Guard that the Ensign Roscarrick bid him put down his piece he told him the Roll was not Calld Over itt was time Enough that Ellison Replyd he was a cross ill Conditioned Cur, or to that purpose Whereupon they had several words that the said Cox tooke hold of the Sargeants sword whereupon the Sergeant hitt the said Cox on the face or breast with his head upon which they Closed and were on the Ground together.

And the said Edward Cox being present att the Examination of the above said persons and being asked what he had to offer in his vindication he absolutely denied the whole matter. Whereupon the Courte having duly Considered the whole matter and finding the matter Alleadged to be sufficiently proved Ag^{t} him doe Order and decree that he be amerced the sum of thirty Shillings Current Money of New Yorke for his said Misdemeanors and that he stand Committed till he pay the same and that the fees are to be paid out of the said sum.

A List of Fines Received by me William Sharpas Clærke of the Lieutenancy Jan y^{e} 7th 169$\frac{2}{3}$.

		£	s	d
Imp.	L^{t} Bouchier for rising from y^{e} board wthout Leave -	—	01	06
	Ensign Cornelius D'Peyster for y^{e} same - - -		01	06
July 7th	Adjutant Graham for rising from y^{e} boord without Leave		01	06
	Ensign Van Bruggh Idem -		01	06
	Ensign van Plank Idem -		01	06
	L^{t} Fooreest Idem - -		01	06
	Cap^{t} Kipp for not wearing his Sword - - - -		01	06
	Adj^{t} Graham Idem - -		01	06
	Cap^{t} Van Flack Idem - -		01	06
	Ens^{n} van Plank Idem -		01	06
	Maj^{r} Merrett for riseing from y^{e} board - - -		01	06
	Cap^{t} Kipp Idem - - -		01	06
	L^{t} D Fooreest not wearing A Sword - - - -		01	06
	L^{t} Shelley Idem - -		01	06
	L^{t} Theobold Idem - -		01	06
	L^{t} Van Bruggh Idem -		01	06
	Cap^{t} Merrett Idem - -		01	06

		l	s	d
July y^e 6^th	pay'd out of y^e above fines to M^r Buckmaster - -	00	12	10½

Dec.y^e 17^th	Cash Received from M^r Smith & Cap^t Willsons Sarj^ts Levyed upon Several persons by order of the Last Court Martial being then fined for not Appeareing in Arms.	2:	16:	06
	Cash paid out of y^e Above Sum to Johannes Burger Serj^t & Albertus Vandewater by Ord^r of y^e Coll.	00.	07.	00
	Ditto to y^e Clerke for y^e warr^t	00.	03.	06.

D^br 17^th	from M^r Smith Cap^t Schuylers Compy - -	00.	16.	00
D^br 27.	p^d Smith p Coll order -	01.	04.	00

Courte Martiall D^r to William Sharpas Cl. of the Same

		l	s	d
1696.	To Sallary from December 28^th 1692 to the 28^th of June 1696, being three years & a halfe att 6^l p annum	21.	00.	00
	Sep^tr y^e 3^d to fees to y^e Court of the fine of Edward fox	00.	14.	07½
	Ditto to fees p^d the Martiall	00.	07.	06
	Ditto p^d George Roscarrick for Drinke by order of y^e Courte Martial	00.	04.	06

p Contra Cr.

		l	s	d
	Received by fines in Courte Martiall	00.	12:	$7\frac{1}{2}$
	by fines of Capt. Willsons Comp.	02:	06:	06
	Ditto of Capt. Schuylers Compy.	00.	10.	00
Sept. ye 3d.	by a fine of Edward Cox	01.	10.	00

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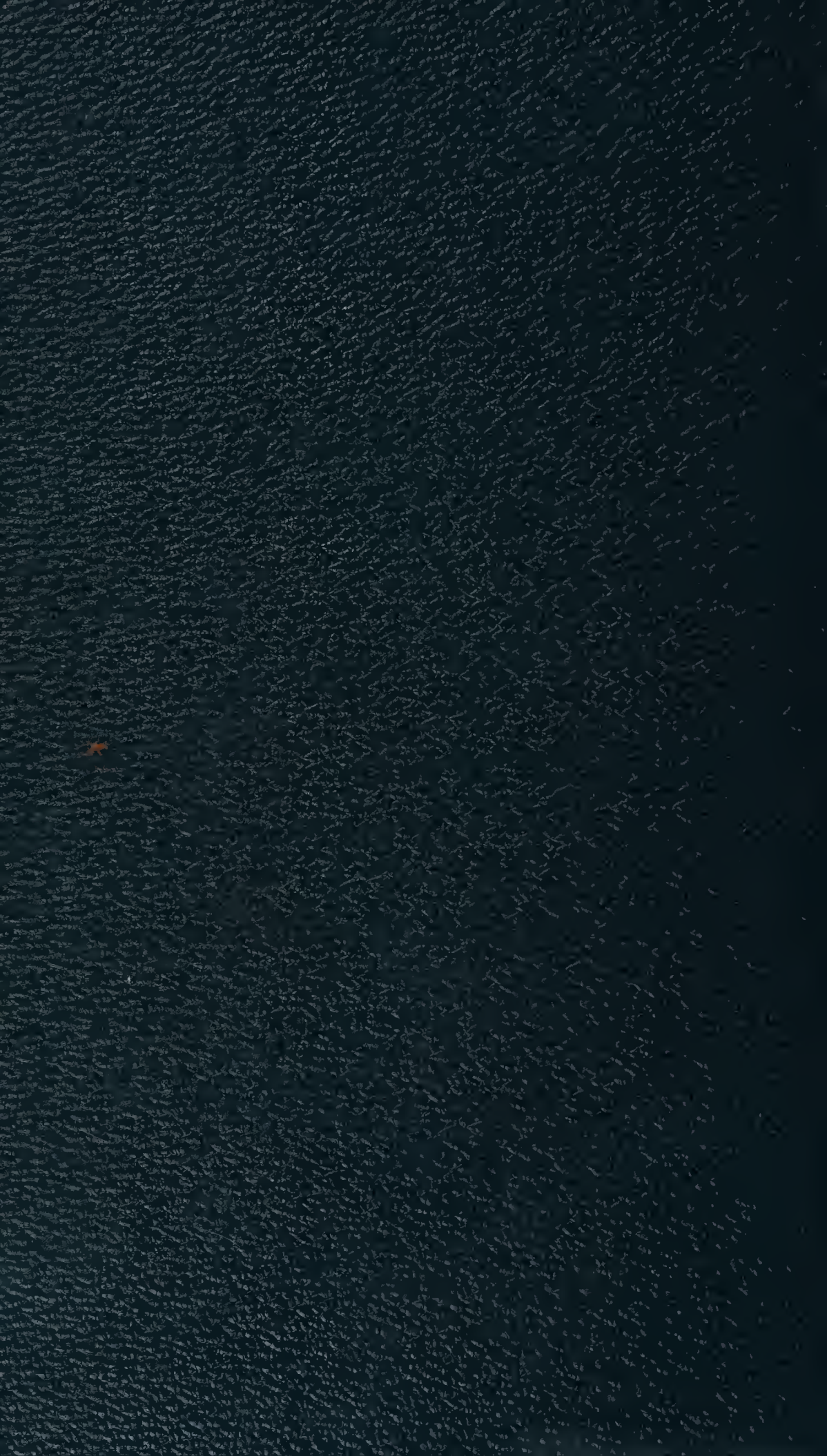
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